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HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA



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STATE CAPITOL  
ROOM 113  
SACRAMENTO, CALIFORNIA  
WEDNESDAY, MARCH 11, 2009  
1:39 P.M.

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STATE OF CALIFORNIA

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STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

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WEDNESDAY, MARCH 11, 2009

1:39 P.M.

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Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713

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MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

RICHARD J. SUBIA, Associate Director, Division of Adult  
Institutions, Department of Corrections and  
Rehabilitation

WILLIAM J. SULLIVAN, JR., Associate Director, Division  
of Adult Institutions, Department of Corrections and  
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**PROCEEDINGS**

CHAIRMAN STEINBERG: The Senate Rules Committee will come to order.

Please call the roll.

MS. BROWN: Senator Cedillo.

Dutton.

SENATOR DUTTON: Here.

MS. BROWN: Dutton here.

Oropeza.

SENATOR OROPEZA: Here.

MS. BROWN: Oropeza here.

Aanestad.

SENATOR AANESTAD: Here.

MS. BROWN: Aanestad here.

Steinberg.

CHAIRMAN STEINBERG: Here.

MS. BROWN: Steinberg here.

CHAIRMAN STEINBERG: Thank you very much. Senator Cedillo is absent today due to an important family matter, so we will operate, obviously, with four members today.

I would like to welcome everyone. Let's begin with number two. I want to begin with number two, the governor's appointees appearing today, and I would like to ask both Richard J. Subia, who is up for confirmation

1

as the associate director of Division of Adult Institutions, Department of Corrections and Rehabilitation, and William J. Sullivan, Jr., associate director, Division of Adult Institutions, Department of Corrections and Rehabilitation, and I want to invite our esteemed colleague, Senator Dave Cox.

If you can get a chair for Senator Cox there, please, to come on up and introduce -- I believe it's Mr. Subia, correct? And I have a brief opening statement to make, and I will turn it over to the nominees.

Okay. Senator Cox, welcome.

SENATOR COX: Thank you, Mr. President Pro Tem and Members of the Committee.

This is my eleventh year in the legislature. First time, by the way, that I have been before the Rules Committee for the purpose of asking you to vote for the affirmation of a gubernatorial appointment.

Let me just tell you that in the first sense, we have five penal institutions, if you will, and in the city of Ione we have Mule Creek. We were having significant problems in the community because of the relationship staff at Mule Creek had with the residents of Ione.

Rich Subia was ultimately appointed as the

2

1 acting warden at Mule Creek, and we began to talk about  
2 what the problems were. What he said to me was, "Dave,  
3 let's work this together. Let's see if we can't take  
4 the steps that are necessary to protect the institution,  
5 but at the same time to take care of the needs of the  
6 community," and that's precisely what he did.

7 And so we were disappointed, Mr. President Pro  
8 Tem, not because he was given a step up, but because he  
9 left Mule Creek as the warden, and we had, then, to go  
10 through the process of trying to retrain the next  
11 person.

12 CHAIRMAN STEINBERG: It's a pretty familiar  
13 problem.

14 SENATOR COX: But at any rate, I couldn't be  
15 more pleased to be here today to ask that you all affirm  
16 the nomination, the appointment by the governor of the  
17 State of California, for Mr. Subia for the position  
18 which you just outlined, Mr. Chairman. Thank you very  
19 much.

20 CHAIRMAN STEINBERG: Thank you very much,  
21 Senator Cox. You're welcome back to the Committee at  
22 any time.

23 SENATOR COX: Thanks very much. I think I'll  
24 leave now.

25 CHAIRMAN STEINBERG: Believe me, I know you

3

1 have a busy day, but we appreciate you coming.

2 Before I ask the two nominees to make some  
3 brief opening statements and we open it up to questions,  
4 let me just make a comment or two, because this is the  
5 first of several weeks of CDCR appointees, and for, I  
6 think, all the obvious reasons, we're going to carefully  
7 scrutinize all of the nominees, because you, in part,  
8 are responsible for overseeing a \$10 billion budget, and  
9 because public safety is obviously one of the  
10 legislature's highest priorities.

11 We're not the only committee in the legislature  
12 that, of course, is looking at CDCR. The agency is also  
13 being scrutinized by Senator DeSaunier's Budget  
14 Subcommittee, Senator Leno's Public Safety Committee,  
15 and, of course, the Assembly as well. And I think it's  
16 fair to say all Members are concerned about the  
17 astronomical increase in Corrections' budget and with  
18 the continuing relationship, unfortunate relationship,  
19 between the federal courts, the federal receiver, and  
20 the department, and the administration in general.

21 You know, there's many things that we have an  
22 obligation to focus on when it comes to Corrections as  
23 well. Certainly, prior Rules Committee hearings have  
24 focused on the high level of vacancies, why it's been so  
25 difficult for the department to keep high-level people

4

1 in high-level positions. We'll continue that  
2 discussion. Nothing is off-limits in terms of CDCR.

3 We want to make sure that some of the  
4 improvements that have, in fact, been made, that CDCR  
5 builds on them, that you continue to replicate smart  
6 programs. We're looking for change, not just in the  
7 country, but, obviously, in California and within the  
8 department.

9 I want to just speak very briefly to a specific  
10 focus of mine, and I hope it will be a specific focus of  
11 others as well, and that is the alarming rate of  
12 illiteracy among the inmate population. If we're ever  
13 going to be serious about rehabilitation or reducing  
14 recidivism, what are we going to do to fund and  
15 replicate the effective strategies to help prison  
16 inmates read so that they can, in fact, qualify for a  
17 job once they are released. I'd appreciate you touching  
18 on that as well.

19 Welcome to you both, Mr. Subia and  
20 Mr. Sullivan, to the Committee. Before you begin, if  
21 you would like to introduce any member of your family or  
22 any other special guest, let's launch right in.  
23 Welcome.

24 MR. SULLIVAN: Thank you. With me today is my  
25 wife, Jane.

5

1 CHAIRMAN STEINBERG: Welcome.

2 MR. SULLIVAN: And my daughter Kelly --

3 CHAIRMAN STEINBERG: Welcome to you as well.

4 MR. SULLIVAN: -- with our potential  
5 grandchild, my son-in-law, Pete, and my son John.

6 CHAIRMAN STEINBERG: Welcome to all of you.  
7 You can have a seat if you want. The children and the  
8 nominees get a seat. That's one of the rules of the  
9 Committee.

10 MR. SULLIVAN: And then probably watching right  
11 now is my other son, who is in Bakersfield in a fire  
12 station, if he hasn't been called out yet, Bill. Bill  
13 Sullivan.

14 CHAIRMAN STEINBERG: Mr. Subia.

15 MR. SUBIA: Thank you, Senator. I'm fortunate  
16 I have my mother and father here, Manuel and Francia, my  
17 son Tony and my wife Maria. And I would be remiss if I  
18 didn't mention the other support I have, which is my son  
19 Philip and daughter Jennifer, who are in Southern  
20 California in school and work. Thank you.

21 CHAIRMAN STEINBERG: Welcome. Welcome to all  
22 of you. Welcome to an exercise in democracy. This is  
23 what the confirmation process is about.

24 Let us begin. Whoever wants to go first,  
25 either Mr. Subia or Mr. Sullivan, tell us why you want

6



1 to be confirmed here today.  
2 MR. SUBIA: Good afternoon, Chairman Steinberg  
3 and honorable Committee Members. I'm extremely honored  
4 and humbled to appear before you today.

5 After 23 years of public service to the State  
6 of California, I'm proud to have been selected by the  
7 administration to be appointed to the position of  
8 associate director of the California Department of  
9 Corrections and Rehabilitation.

10 As a young man, I was taught by my parents that  
11 the two most important things in my life are family and  
12 service. My father was a dedicated civil servant over  
13 38 years, and I knew early on in life that dedication to  
14 the family and service to the community were required to  
15 live a complete life.

16 After four years of serving in the United  
17 States Navy, I embarked on a career in state service as  
18 a correctional officer with the then CDC. It was then  
19 that I met my wonderful wife of 22 years, who as well  
20 has dedicated over 28 years serving the State of  
21 California.

22 While continuing to work for the CDC, I also  
23 balanced a home life, involving myself in community  
24 activities which included coaching youth sports, serving  
25 as a scout master with the Boy Scouts of America, and

7

1 solely responsible for the success of this agency and no  
2 one person is any more important than another.

3 I have been fortunate to have worked for and  
4 with some outstanding people over the past 20 years --  
5 23 years. All in some way are responsible for my  
6 success, and, as such, I feel I have an obligation to  
7 continue to assist all Corrections employees in their  
8 career endeavors. I have continuously ensured that I am  
9 a mentor to my staff, a role model to the inmate  
10 population, and a partner to the community.

11 I appreciate the opportunity to appear before  
12 you today and ask for your support in my role as the  
13 associate director with the California Department of  
14 Corrections and Rehabilitation. And I'm available to  
15 respond to any questions you may have.

16 CHAIRMAN STEINBERG: Thank you.

17 Mr. Sullivan.

18 MR. SULLIVAN: Thank you. Good afternoon,  
19 Chairman and Members of the Senate Rules Committee. My  
20 name is Bill Sullivan, and I'm currently the associate  
21 director for the level-three and -four general  
22 population mission.

23 I would like to also thank the mission staff  
24 and headquarters and the various prisons within our  
25 mission, for without all their efforts, this would not

9

1 president of the school PTAs.

2 I have been extremely fortunate in my career  
3 with the CDCR and believe that the rewards I have  
4 received are best returned through community service.

5 Throughout my tenure, I promoted through the  
6 ranks holding the position of correctional officer,  
7 sergeant, lieutenant, captain, associate warden, chief  
8 deputy warden, warden, and for the past 14 months,  
9 associate director for the Division of Adult  
10 Institutions.

11 This current assignment finds me charged with  
12 the oversight of nine level-two and -three institutions,  
13 41 male-offender conservation camps, and 12 community  
14 correctional facilities.

15 My career has provided me opportunities to work  
16 in the field of institution operations, employment and  
17 labor law, communication, gang suppression, and internal  
18 affairs, and narcotics investigation. I have had the  
19 opportunity to work at five institutions and with  
20 inmates of all security levels. Whether working as a  
21 staffer supervising a contingency of staff, or  
22 overseeing a major prison operation, I have always had a  
23 complete understanding that it is the dedicated,  
24 hard-working staff at the CDCR who handle the day-to-day  
25 operations in this huge agency, and no one person is

8

1 be possible.

2 Additionally, I would like to thank my  
3 counterparts and the staff in the other missions and  
4 divisions who also provide support. I would especially  
5 like to thank my wife Jane, who I introduced earlier,  
6 and my family, some of whom are here today, for their  
7 understanding and support throughout my career with the  
8 department.

9 I received a bachelor's degree in industrial  
10 arts from California State University, Los Angeles, in  
11 1976, and a master's degree in education administration  
12 from Cal State LA in 1987.

13 I began my career with the department as a  
14 vocational instructor in 1984 at the California  
15 Rehabilitation Center and progressed through the  
16 education department within Division of Adult  
17 Institutions, as well as Juvenile Justice.

18 My professional responsibilities evolved into  
19 assuming administrative duties within the department  
20 culminating with my appointment as warden at the  
21 California Correctional Institution in 2003. The  
22 specific assignments I have assumed during my career are  
23 outlined in the application resume that has been  
24 provided to you.

25 At this time, I will be happy to answer any

10

1 questions that you may have.  
2 CHAIRMAN STEINBERG: Very good. Welcome to  
3 both of you.  
4 I'm going to begin with a general question for  
5 both of you. What is going well and what is not going  
6 well when it comes to the Department of Corrections?  
7 MR. SUBIA: I think --  
8 CHAIRMAN STEINBERG: Easy.  
9 MR. SUBIA: That's an easy question. Very  
10 narrow focus.  
11 Senator, I think what's going well is we now  
12 have the ability with our new organizational structure  
13 to work across the board with each other to identify  
14 those best practices that we identify with some of our  
15 respective institutions and share them.  
16 Some examples are, we are looking at some  
17 visiting processes that have been successful at some  
18 of our institutions and are now working with some of our  
19 other stakeholders and other institutions in order to --  
20 to try and provide the same opportunity to the visitors  
21 who come within our prison, to do that in a more  
22 expedient manner. It has moved a little slower than we  
23 would have liked, but we are beginning to see that  
24 happen at some of our various institutions.  
25 We also -- When we have problems within some of

11

1 our specific institutions, with the five associate  
2 directors we have now, we can work together to move  
3 forward in handling problematic inmates. Programs that  
4 are effective, we have the ability to work together as  
5 associate directors and reach out to our partners in  
6 adult programs to roll these same type of programs out  
7 to our various institutions.

8 So I think with -- something that's working  
9 well would be our ability to work together in the new  
10 operational structure.

11 In my opinion, some of the struggles we're  
12 having right now is with our population. We have such a  
13 diverse population, and, as you see in the community,  
14 the rising gang activity and the rising criminal  
15 activity, it's now become a major part of our prison  
16 operations to where there's so many different factions  
17 and disruptive organizations, that it's difficult for us  
18 to provide appropriate programming on a daily basis.

19 The other problems that we are having is some  
20 of our contraband issues, which we are working at.  
21 There's a bill that's in front of the legislature this  
22 year that has to do with cell phone interdiction. And  
23 the use of cell phones within our prison has become a  
24 very, very serious security and safety issue for us,  
25 which we believe reaches out to the community. So

12

1 that's another one of our major problems that we are  
2 attempting to tackle and believe that we can tackle that  
3 and resolve some of the safety issues that we currently  
4 have.

5 MR. SULLIVAN: In addition to those, you  
6 mentioned the population earlier. One of the biggest  
7 things we're confronting right now is the narrowly  
8 defined elements of our population and the difficulty  
9 that presents for us to find a bed for an inmate.

10 To explain that, we have four levels of custody  
11 within the Department of Corrections. We also have  
12 medical needs that we have to address that a specific  
13 institution may or may not be able to provide. We have  
14 mental-health issues that we have to also consider. We  
15 have safety-type issues that we need to deal with for  
16 inmates that might have those kinds of problems that we  
17 also have to provide for.

18 To displace one or to make room for one element  
19 of the population, it almost takes displacing another  
20 element, because virtually all the beds are taken. So  
21 we're in a constant state of projecting, analyzing  
22 population needs and strategies, to accommodate those.

23 One of the other biggest -- I think the biggest  
24 difficulty that impacts all of this is the budget. We,  
25 like everyone else within state government, are faced

13

1 with trying to provide these programs and trying to  
2 develop strategies that will, hopefully, reduce the  
3 recidivism rate for the inmate population, but we've got  
4 to find other creative ways right now to put those into  
5 play.

6 One of the things that we've talked about, and,  
7 again, me being from a vocational background, is looking  
8 at vocational programs and ways of providing legitimate  
9 training activities for inmates utilizing, for instance,  
10 community service projects where the community would  
11 benefit from the labor force that we provide from the  
12 inmate population vocational program, as well as reduce  
13 cost, because they provide the materials to the voc  
14 program for the inmates to work through.

15 It benefits the inmates, because now they're  
16 getting realistic-type projects that would be later  
17 utilized in the community, so they're developing some  
18 sense of self-worth through leaving something that they  
19 did back in the community that they may have come from.

20 It's a lot different training an inmate on a  
21 project like that that's going to be utilized, you know,  
22 a real-life-type training project, than it is something  
23 that you have them do that we end up throwing away  
24 because there's no use.

25 CHAIRMAN STEINBERG: Senator Oropeza.

14



1 SENATOR OROPEZA: Can I follow up on that,  
2 Mr. Sullivan.  
3 It's my understanding that under the new  
4 structure, programs are not really what you're  
5 responsible for. And I'm happy to hear about your  
6 interest in those programs.  
7 Can you talk to me about how your job  
8 interrelates with whomever is responsible for that and  
9 how that actually can manifest in reality, because of  
10 this new structure, and any comments you have on the new  
11 structure as well.

12 MR. SULLIVAN: With the new structure, the  
13 program division or department is responsible for  
14 education, in this particular instance.

15 In my part of the operation, the Division of  
16 Adult Institutions, I'm responsible for the seven level-  
17 three and -four prisons. And programs -- I feel a sense  
18 of responsibility for those programs that are in those  
19 facilities, whether they go up through my chain or a  
20 different chain.

21 I see myself as sort of a facilitator bringing  
22 the institution and that program unit together. The  
23 institution identifying the needs that they have, the  
24 resources that they have, and the available space, for  
25 instance, is one of the difficulties we have right now,

15

1 the eligible population that will require these kinds of  
2 programs, and then through me developing a strategy to  
3 present to, in this case, the office of correctional  
4 education, to provide the necessary resources to us.

5 SENATOR OROPEZA: Where do I find the office of  
6 correctional education?

7 MR. SULLIVAN: Office of correctional education  
8 is actually DVOP.

9 SENATOR OROPEZA: It's not on here. It's not  
10 on the chart.

11 CHAIRMAN STEINBERG: It's there, but it's  
12 vacant. I'm looking at it here.

13 If I may, you've got the program -- Looking at  
14 the --

15 MR. SUBIA: For all of you following at home.

16 CHAIRMAN STEINBERG: You have the programs  
17 here, and as you go down here, the division of education  
18 vocational programs, it's empty.

19 SENATOR OROPEZA: This is my question. I don't  
20 understand how on the ground -- you know, here in  
21 Sacramento we are often dinged, and appropriately so,  
22 for adopting policies, laws, that don't make practical,  
23 on-the-ground sense.

24 What I'm trying to glean here is what the  
25 on-the-ground reality is around what I embrace, which is

16

1 what you were talking about, in terms of the programs,  
2 and the reality of this structure. So if either of you  
3 can comment on that, that would be useful.

4 MR. SUBIA: Senator, one of the things that I  
5 think has been beneficial for us is being able to work  
6 with adult programs and the Division of Adult  
7 Institutions together, so we're having experts in both  
8 prison operations at the table and those experts in  
9 education and programs.

10 So there's a weekly meeting that takes place  
11 that I attend as a representative for the Division of  
12 Adult Institutions, and I represent our division to  
13 ensure that when the adult programs want to bring  
14 forward a specific program within an institution, I can  
15 be there in order to operationalize that, to make sure  
16 the institution staff have the ability to get the  
17 inmates access to those programs. And if I see any  
18 obstacles and I see any stumbling blocks that could  
19 occur, I could raise those at that time. And we work  
20 together -- I work together with the undersecretary of  
21 adult programs in order to resolve those issues.

22 We may put together smaller teams in order to  
23 find how we get some resolution so we can get the most  
24 programs to those inmates, and then working through our  
25 division to make sure that we have the right inmate at

17

1 the right facility in the right program.

2 So we're able to do that with the new  
3 organization, so we have the operational experts at the  
4 table and the program experts at the table.

5 SENATOR OROPEZA: Where does that connect? At  
6 what level? At what place does that connect?

7 You know, it's so hard to tell from the boxes,  
8 but I must say it seems very clear that there is a  
9 separation of functions, operations with an  
10 undersecretary, programs with an undersecretary. So  
11 where do you connect? I see, you know, your position  
12 here. Where does it connect with the programs?

13 MR. SUBIA: Depending on what the discussion is  
14 would be dependent on what folks we have at the table.

15 I connect typically with the chief deputy  
16 secretary of adult operations. And in order to ensure  
17 that we have an operations entity at the table, either  
18 myself, in this case, would be at that table, or one of  
19 my staff members, or another staff member in the mission  
20 who is the expert within that field.

21 If it's a classification issue, I would make  
22 sure that a person representing the classification side  
23 of our division is at the table with me.

24 So it connects at the undersecretary, director,  
25 and associate director level, chief deputy secretary.

18

CHAIRMAN STEINBERG: Can I follow up, because I think it's a very, very important line of questioning.

I guess the only editorial comment I would make is -- before I ask the question is, if you look at local government, for example, not that they do everything perfectly, but there's this notion now of organizing themselves around one-stop shopping. I mean, in other words, so a citizen who needs -- a person who needs city services can go to one place to get them.

And I guess as I look at this org. chart as well, I just wonder whether or not these various functions are so spread out that despite your best efforts to coordinate with the program side, that, you know, you have your duties and your 12, 14-hour days, they have their duties and 12, 14-hour days, and how much, you know, interaction is there really?

So let me ask the question in this way: Let's take literacy, which I mentioned in my opening remarks, where the studies have shown that the average inmate reads at about a seventh-grade level. Can you give an example of a literacy program within the adult system that is working, and how the programmatic side works together with the custody side, which you're responsible for, in making it work, and then in seeking to replicate it throughout other institutions that don't have it?

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SENATOR OROPEZA: Great question.

CHAIRMAN STEINBERG: I had some help.

MR. SULLIVAN: I'll answer that one, Senator.

Basically, we have the basic education program. We start off with ESL, English as a second language, and progress up through a GED to the ABE series. That's the basic education, the academic component that we have.

From a literacy perspective, I think Senate Bill 949, the Sterling bill, wanted us to get the inmate population to a 9. -- ninth-grade level. This goes back a number of years. That sort of got the Limbach (phonetic) tutors going, the tutor training where inmates will tutor other inmates, assist them in their literacy needs, which is basic reading. We also have teaching assistants in the academic programs that do that as well. And then the vocational programs, we have time dedicated to literacy as well.

In the PIA programs, they also -- we have had -- in fact, there was a news article that came out today where they had several graduations of inmates that are currently assigned to PIA that had attained their GEDs.

So it's sort of a cumulative effort, and, again, it comes down to our ability to keep programs up and running, reduce modified programs that would impact

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the regular academic or vocational programs, and to increase the self-help groups, which is what the....

CHAIRMAN STEINBERG: Is there a best practice?

Is there an institution you can point to to say: Wow! This is where we are making the most progress when it comes to increasing the literacy skills of inmates, thereby the job skills. Is there a place where it is working well that you can point to that might serve as the basis for us to say, "Okay. Let's put some more resources into this program so we can do it elsewhere"?

MR. SUBIA: We have most recently looked at all of our institutions and done surveys of the institutions with regard to reading levels, with regard to programs that were being provided, to try to really see if we have the right programs in the right institutions.

What we have found is the reading level is, interestingly enough, separated based on the type of inmate. Where you may have an institution such as Mule Creek, that is a sensitive-needs facility, with a reading level of over ninth-grade reading level and above, you find your inmate population is much older, much more sophisticated, because of the type of inmate that we have there.

If you look at an institution down in the valley, such as some of the desert prisons near the

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Mexican border, the reading level is lower down there because we have our ICE inmates there, some of our inmates who are Mexican nationals and don't have a really good grasp on the English language, and for testing purposes, their reading level looks quite low.

Recently, it was important for us to do that overall survey, and adult operations or adult programs went to every one of our prisons, did a complete survey of the programs that are offered, a survey of the type of inmates, and so now we're at the point where we can adjust the type of programs that we're offering at those facilities to do just what you asked, Senators, to ensure we find the best practice and we send that practice out to other adjoining prisons, other prisons within the state.

CHAIRMAN STEINBERG: So just to press the point a little farther, we don't yet have identified best practice, but you're in the process of trying to determine the best practices for, to use one program, literacy?

MR. SUBIA: Yes, sir.

CHAIRMAN STEINBERG: When will we have that? When will the public and the people's representatives be able to stand up in a community meeting or in a legislative hearing and say, "This is one great example

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1 of what we want to replicate"? Is it six months? Is it  
2 a year? Is it 18 months?

3 MR. SUBIA: I know that the programs side of  
4 our organization has a timeline that they've set out  
5 with the roll-out of their literacy programming, and I  
6 don't have that information available here, Senator, but  
7 I would be more than happy to get back with your offices  
8 after I have the opportunity to speak with them.

9 CHAIRMAN STEINBERG: Okay. Ms. Hayhoe, you --  
0 This is going to be a theme, so we want to push you in  
1 the right way towards, again, trying to identify the  
2 best practices in the education and the rehabilitation  
3 field, get it out there, timelines on spreading them far  
4 and wide where they're working, and let's start turning  
5 this thing around. You know, that's what we're  
6 interested in.

7 Senator Aanestad.

8 SENATOR AANESTAD: Both of you are in the  
9 operations section logistics, which really has an impact  
0 on the communities that your facilities are in.

1 The complaints that I get from my facilities  
2 have to do with payment of bills, transportation and  
3 taking care of prisoners in the local healthcare  
4 facilities.

5 In your opinion, since the -- coupled with the

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1 budget crisis that we have, in your opinion, in the last  
2 couple of years, both as your experience as wardens of  
3 individual facilities and now multiple responsibilities,  
4 has the problem with working with the community, paying  
5 bills on time, using medical services, the court  
6 services -- I have courts that haven't been paid for a  
7 year and a half by the corrections department for the  
8 use of their facilities. I have hospitals that are  
9 hurting also, ambulance services going out of business  
0 because they're not being paid for transporting the  
1 prisoners. Has that gotten any better or worse in the  
2 last two years?

MR. SULLIVAN: Senator, I've heard -- this is  
the first I've heard of the bills aspect, the budgetary  
aspect of it. I know there's a heavy impact on the  
local community and the medical facilities for the  
inmates to go out and get those services.

One of the things that we are trying to do,  
again, is to maximize the access to care for the inmate  
population. With that we have got access positions,  
basically, correctional officers, where we need to have  
the ability to escort inmates to the services if they're  
on grounds, as well as transport them into the community  
hospitals, the community facilities, and back to the  
institution.

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1 One of the things that we can look at, and I  
2 think we're always trying to do, is get as much of the  
3 service provided on grounds as we can, and primarily the  
4 emergency-type services or those specialty-type services  
5 that we can't get a handle at the facility would be the  
6 ones we would take them outside to try to reduce the  
7 impact. But, Senator, I was unaware of the budgetary  
8 aspect of this.

9 MR. SUBIA: With the placement in the  
10 department of healthcare now falling under the receiver,  
11 there's been some transition issues that have taken  
12 place over the last couple of years that I think had an  
13 effect on what you're speaking of.

14 There have been some issues, and many of those  
15 affected, of course, by the budget and our ability to  
16 draw as much money and have that money last as long as  
17 possible, that had an effect on the payout of some of  
18 our contracts that we have, and then the transition into  
19 the receiver's office with regard to the enhanced  
20 medical services, we're seeing an exorbitant amount of  
21 inmates now that get transported out for medical  
22 services to more and more locations with regard to  
23 specialized services.

24 So we're really trying to utilize our folks  
25 within our organization and our budget and contract

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1 shop, working with the receiver's staff in order to  
2 really resolve many of those issues. And when there are  
3 payment issues, we do what we can on the operations side  
4 to get the right people in the room to resolve those  
5 issues. But many of those have to do with the  
6 transition over -- as far as medical services are  
7 concerned, the transition to the receiver's staff.

8 SENATOR AANESTAD: I appreciate that, but don't  
9 forget the district attorneys who also have complained  
10 to me that they're incurring expenses that they're not  
11 getting reimbursed for and are sometimes 18 months in  
12 arrears. Thank you.

13 CHAIRMAN STEINBERG: Senator Dutton, do you  
14 have any questions?

15 SENATOR DUTTON: No.

16 CHAIRMAN STEINBERG: Senator Aanestad touched  
17 on contracts and budget-related impacts. I want to ask  
18 about the budget and furloughs, and how that is  
19 affecting the ability of the institutions you are  
20 responsible for for public safety.

21 Can you touch on that a little bit? What  
22 impact is the budget specifically having on your  
23 institutions?

24 MR. SULLIVAN: I think from an impact  
25 perspective, obviously it's having an impact on staff

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1 morale. That's what we're dealing with from a  
2 leadership perspective.  
3 As far as the operations, there's three  
4 categories of this furlough: category one, category  
5 two, category three. Category three is the one where we  
6 need to keep an operation going, a 24/7 type of an  
7 operation. We can't afford to let someone off and burn  
8 furlough and continue to provide services and the things  
9 that need to occur within the prison. They're allowed  
10 to bank their time.

11 So currently what's happening with the staff  
12 that are associated directly with the prisons, they're  
13 allowed to bank that time and utilize that time at  
14 sometime in the future, like two years after the  
15 closure -- I think it's July of next year -- the ending  
16 of this particular budget cycle.

17 MR. SUBIA: One thing, Senator. In my  
18 discussions with staff and my travels to the  
19 institutions, one thing I do hear -- and our staff  
20 realizes the downturn in the economy and the effect it's  
21 having in general in the State of California, where  
22 people are actually losing their jobs. And we have  
23 those discussions that in our organization, in state  
24 government, although we may be taking a furlough time,  
25 we are fortunate that we're not in a small business and

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1 are losing our job as a result of what's happening  
2 nationally. So those are the kind of discussions that I  
3 try to have.

4 I think that there are some things that we  
5 really have to look at purchasing, and we are being more  
6 frugal in our purchases. The associate directors and  
7 director level review purchases. We review where people  
8 can travel, and we review all appointments to ensure  
9 that they're critical appointments and are within  
10 budget.

11 So we have taken the approval steps even higher  
12 to make sure that we are not spending just because we  
13 believe the money is there. We are ensuring that the  
14 institutions know what the situation is, not only to our  
15 agency but to the State of California, and are  
16 monitoring what's going on within the facilities.

17 CHAIRMAN STEINBERG: So I have to ask a  
18 question -- just shift for a minute -- about the cell  
19 phone issue that you raised earlier. How in the heck  
20 are 2,800 cell phones getting inside the prison? I  
21 mean; obviously, it's through visitors. Do they not  
22 go through --

23 I can't take my cell phone through an airport  
24 detector, right? I've got to put it down on the x-ray  
25 machine, otherwise I beep.

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1 MR. SULLIVAN: They come in through numerous --  
2 with visitors, there's staff issues, there's packages,  
3 and there's numerous ways where these devices can be  
4 secreted and then moved into the institution.

5 That's something that -- Mr. Subia actually is  
6 heading up a work group or task force that's looking at  
7 the different types of technologies to prevent the  
8 interdiction of cell phones into the prison, as well as  
9 detect cell phones if they do happen to make it inside.

10 We continue to monitor the conversations  
11 between inmates and their visitors, or as we get  
12 allegations, potentially, of staff maybe becoming  
13 overfamiliar and possibly introducing them that way, and  
14 following through on those investigations that deal with  
15 those through a job-action perspective.

16 We're also -- We had an operation over at  
17 Solano where they went through a very intensive search  
18 process, basically, of all the staff coming into the  
19 prison. We're looking at replicating that at all  
20 prisons statewide, as well as a more aggressive approach  
21 to dealing with people bringing things into the  
22 institution, even outside of a specified operation like  
23 that.

24 When we do get information that there are cell  
25 phones in specific areas that may be on specific inmates

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1 or in specific cells, we do targeted cell searches, and  
2 that's resulted in a significant number of cell phones  
3 being discovered, probably over the last six months in  
4 my mission.

5 So there's a number of things, including  
6 technology as well as our practices, at the points of  
7 entry into an institution to try and eliminate the  
8 possibility of cell phones coming in.

9 CHAIRMAN STEINBERG: Don't packages and people  
10 who enter the institution have to go through some sort  
11 of x-ray process?

12 MR. SULLIVAN: No.

13 MR. SUBIA: No.

14 CHAIRMAN STEINBERG: No? Or I should say metal  
15 detector.

16 MR. SULLIVAN: No.

17 MR. SUBIA: The visitors to the institution go  
18 through a metal detector, but we do find that a number  
19 of the cell phones that enter into our institution are  
20 brought in through our own staff, and those staff  
21 members aren't required at this point to go through a  
22 metal detector.

23 But as part of the task, we are looking at  
24 rolling out different types of ingress and egress  
25 activities within our institutions to move towards

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1 things that you see in some of the other penal  
2 institutions, something more like an airport-type  
3 security process. Of course, we would move that issue  
4 forward through the legislature for funding in order to  
5 make that happen.

6 CHAIRMAN STEINBERG: Oh, sure. We have lots of  
7 money.

8 (Laughter.)

9 CHAIRMAN STEINBERG: I don't want to take the  
0 import of your answer in the wrong way, but are you  
1 suggesting that there may be hundreds of employees that  
2 are sort of complicit in smuggling cell phones in to --

3 SENATOR AANESTAD: Other things, drugs.

4 CHAIRMAN STEINBERG: -- to assist inmates?

5 MR. SUBIA: I don't know if the number  
6 "hundreds" is an accurate number. I do know that in  
7 some cases it has become a lucrative business for some  
8 of our staff to enhance their salary by being paid to  
9 traffic in contraband.

0 It's been an ongoing issue with our department  
1 with regard to controlled substances, but at a low  
2 number, because it's a felony if you're arrested doing  
3 that. With cell phones and tobacco, for instance, two  
4 other items that are illegal within our facility, it is  
5 not a felony, and there is not a significant criminal

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1 charge to an employee who's caught doing so. They may  
2 lose their job, but they don't go to jail. As such,  
3 we're moving forward some legislation to make some of  
4 those violations a felony so it takes away the  
5 encouragement from our staff that *If I get caught, I can*  
6 *just go get a job somewhere else.* No. If you get  
7 caught, you'll be charged with a felony. So that's one  
8 of the reasons why we're hoping to move that legislation  
9 forward.

0 CHAIRMAN STEINBERG: Interesting.  
1 Senator Dutton.

2 SENATOR DUTTON: Just on that point, we've got  
3 over 60,000 employees in the system, so 1 percent would  
4 actually be over 600, so it could be, actually,  
5 hundreds.

6 MR. SUBIA: It could be. I just don't have an  
7 accurate number, and I didn't want to....

8 SENATOR DUTTON: No problem.

9 CHAIRMAN STEINBERG: Okay. Let's hear from the  
0 witnesses in support of the nominees. We may want to --  
1 I don't know how to do this logistically here.

2 Gentlemen, you might want to take the seats in  
3 the front row, if you don't mind. People can come up  
4 there. I apologize. Stay right where you are. That's  
5 great.

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1 Come on up, and we've got the mic right there.  
2 Witnesses in support.

3 MS. ESTES-DANGERFIELD: Good afternoon. My  
4 name is Darlene Estes-Dangerfield. I am the president  
5 of the Association of Black Correctional Workers. I am  
6 here today on behalf of and to support Mr. Subia and  
7 Mr. Sullivan.

8 I have to say that you've done an excellent  
9 choice of appointments. Both individuals have  
10 personable personalities, knowledgeable, honor, and  
11 fair. And, again, we are here to support those  
12 individuals.

13 CHAIRMAN STEINBERG: Thank you.

14 MS. ESTES-DANGERFIELD: One tiny thing.

15 CHAIRMAN STEINBERG: Yes.

16 MS. ESTES-DANGERFIELD: I looked over, and the  
17 person -- I see the new faces here, recognize those.  
18 But Evelyn -- Evelyn was the bright-colored, smile face.  
19 So would you let her know that we're going to miss her?

20 CHAIRMAN STEINBERG: Okay.

21 MS. SALARNO: Honorable Senators, I'm Harriet  
22 Salarno. I'm president/chair of Crime Victims United of  
23 California. I personally wanted to come here in support  
24 of Richard Subia. I have known him for over 15 years.  
25 I first met him through the Correctional Peace Officers

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1 Foundation at a memorial service.

2 However, on a professional basis, I have worked  
3 with him when he was a warden at Mule Creek and also  
4 when we were going through the reorganization, and we  
5 found him very dedicated, compassionate, and accessible,  
6 and that is so important to us. So we are very proud to  
7 put our name on the list for support.

8 CHAIRMAN STEINBERG: Thank you very much,  
9 Ms. Salarno.

10 Mr. Warren.

11 MR. WARREN: Good afternoon. My name is David  
12 Warren. I know this going to bother Mr. Dutton that I'm  
13 speaking in support, because it's contrary --

14 SENATOR DUTTON: I'm ready to move.

15 MR. WARREN: I've known Mr. Subia for quite  
16 some time, and I'm glad to support his nomination today.

17 I recently met the other nominee, and his  
18 background in education is extraordinarily important,  
19 because that's what we do in the prison system.

20 Mr. Subia has assisted me in the programming,  
21 because programming religious activity tends to be in  
22 conflict with security, and it's an ongoing problem.  
23 And I think that we should recognize not only these two  
24 nominees, but Ms. Hubbard, who is their immediate  
25 supervisor, has led the way in trying to make sure the

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1 programming has adequate access.

2 Mr. Steinberg, I would like to address three of  
3 the questions, if I may, that you raised.

4 CHAIRMAN STEINBERG: Briefly.

5 MR. WARREN: Number one -- very briefly. One  
6 of the issues that a tremendous number of inmates want  
7 to program are prevented from doing so because, as an  
8 example, single-yard environments. You have a small  
9 number of individuals who you can easily describe --  
10 best example. At Folsom, we planned a Passover seder.  
11 Some individuals who never would know a national  
12 socialist if they ran over them, but who believe they  
13 are Nazis, caused a disruption in the yard which closed  
14 down the entire prison. And the warden there was kind  
15 enough and gracious enough to bring -- now a retired  
16 warden, was gracious enough to bring all the Jewish  
17 members to the service. But for that, that programming  
18 would have been stymied. We need to address the honor  
19 yard concept so we can bring those people who want a  
20 program into an environment where they can succeed and  
21 continue to do so.

22 Number two, I strongly commend to you the C-ROB  
23 reports. I attend every one of their meetings, and the  
24 programming and the progress on AB 900, or the lack  
25 thereof, is clearly outlined there, and I have to say

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1 that Ms. Hood and Ms. Jett have done yeoman work in  
2 getting that information together. And it is truly  
3 amazing, going from zero to maybe 30 in a very short  
4 period of time. They're not up to 60 yet.

5 Last, but surely not least, I think the real  
6 problem in the California prisons is not the very  
7 competent individuals we have running them. It's the  
8 fact that there's too many people in insufficient space.  
9 And until that issue is resolved, we're going to  
10 continue to have difficulties with education.

11 Thank you.

12 CHAIRMAN STEINBERG: Thank you very much.  
13 Excellent testimony.

14 Please, anybody else in favor of the witnesses?  
15 Excuse me. In favor of the nominees. In favor of the  
16 witnesses, if you would like, or be opposed. Whatever  
17 you want.

18 MR. RYAN: Good afternoon, Mr. Chairman and  
19 Members of the Committee. My name is Martin Ryan. I'm  
20 the sheriff of Amador County. I've known Rich Subia --  
21 and I'm here to support -- since I took over in January  
22 of '07. I can tell you that from personal experience,  
23 that Rich Subia has become a close, personal partner  
24 with the community in which he resided when he was the  
25 acting warden at Mule Creek, participating in social

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1 events, showing up at fundraisers, participating with my  
2 office in our annual toy drive. His staff collected  
3 thousands of toys, thousands of dollars that went to  
4 needy kids in our community. He's always out there.  
5 He's outside the prison walls. He's engaged in the  
6 community, whether it be an issue with the community  
7 itself or as a partner with law enforcement.

8 He was instrumental in getting a CDCR employee  
9 as part of our narcotics task force, I think the first  
10 one in the state, to address the needs of the prison and  
11 to address the needs of the community with regards to  
12 that issue. He's one of those quality guys.

13 I've been in this business for 34 years.  
14 There's people who claim to be leaders; there's a lot  
15 that aren't. Rich Subia is one of them.

16 CHAIRMAN STEINBERG: Thanks very much.

17 Other witnesses in support. Briefly, if we  
18 can.

19 MR. GREENHAUGH: I'll be brief. Hi. My name  
20 is Dennis Greenhaugh. I'm a correctional officer at  
21 Mule Creek State Prison. I'm currently the vice  
22 president of the local chapter of the Chicano  
23 Correctional Workers Association. I worked with  
24 Mr. Subia at Mule Creek through his tenure as the  
25 employee relations officer, correctional captain, and as

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1 acting warden.

2 In corrections, there's two things that you can  
3 do that will earn your respect: That's being consistent  
4 and being fair. And that is what Mr. Subia is. And on  
5 behalf of the Chicano Correctional Workers Association,  
6 we offer him our full support.

7 CHAIRMAN STEINBERG: Next.

8 Thank you for your testimony.

9 MR. PIMLOTT: Good afternoon. I promise to be  
10 brief. Ken Pimlott, assistant deputy director for fire  
11 protection for Cal Fire, and I just want to testify that  
12 over the last 14 months, Mr. Subia has worked in our --  
13 with us cooperatively in our conservation camp program,  
14 which, as you know, as you commented on, over 41  
15 conservation camps that supplied 4500 inmates for our  
16 inmate firefighter program, as well as daily work  
17 activities in the communities throughout California.

18 As we face the challenges of inmate population  
19 and working through these, Rich Subia has been  
20 instrumental in helping us work through those challenges  
21 and making it work, so Cal Fire supports.

22 CHAIRMAN STEINBERG: Thank you for coming  
23 today. We appreciate it.

24 Next.

25 MR. RENTERIA: Hello. My name is Falcon

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1 Renteria. I'm a correctional officer at Mule Creek  
2 State Prison in Ione. I am also the CCWA Ione chapter  
3 president. I am here to fully support and endorse  
4 Richard Subia for associate director.  
5 He was our acting warden at our institution.  
6 He had an open-door policy, and we were able to come and  
7 see him with our concerns. He listened to all sides and  
8 was always fair. He heard the facts and issues before  
9 making decisions. He was well-liked and had great  
0 support among all staff. I had a great pleasure to work  
1 with Mr. Subia. I'm confident he will succeed in any  
2 position. Thank you.

3 CHAIRMAN STEINBERG: Thank you.

4 MR. RENTERIA: And also on behalf of the state  
5 president, she sends her regards. She has full support  
6 for Mr. Subia.

7 CHAIRMAN STEINBERG: Thank you very much for  
8 coming to testify today. We appreciate it.

9 FR. BAPTISTA: My name is Father Baptista. I  
0 work as a Catholic chaplain at Mule Creek State Prison,  
1 and I have worked with Mr. Subia for the last 11 years  
2 or so, and he has been very supportive of the programs,  
3 especially among one program called CGA, Criminals and  
4 Gang Members Anonymous, which I sponsored since the  
5 beginning and now has spread to many other prisons, and

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1 he has been very supportive of it. And so I'm here to  
2 endorse his confirmation.

3 CHAIRMAN STEINBERG: Thank you, Father.  
4 Appreciate it.

5 FR. HORAN: Good afternoon. I'm Father George  
6 Horan from the Office of Restorative Justice,  
7 Archdiocese of Los Angeles, and also the L.A. Sheriff's  
8 Department. I'm the Catholic liaison, although I'm not  
9 representing either of those groups here. This is  
0 personally my own experience with Mr. Subia.

1 I'm, as Father just mentioned, a group  
2 that's -- Criminals and Gang Members Anonymous. I'm on  
3 their general service board. We wanted to make some  
4 videos so the program could be taken to many other  
5 prisons and outside on the streets, and Mr. Subia -- I  
6 don't know how he ever did it, but he allowed us to come  
7 over with a full film crew for five days to Mule Creek  
8 to make these films so we could get this program out.

9 It is a program that really does promote  
0 rehabilitation. To me, that's the strongest thing with  
1 Mr. Subia, is that he understands what rehabilitation is  
2 all about and will do everything he can to promote that.  
3 Thank you.

4 CHAIRMAN STEINBERG: Thank you, sir.

5 MR. NOVELLI: Good afternoon, Senators, ladies

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1 and gentlemen. Theodore F. Novelli, chairman of the  
2 board, Amador County Board of Supervisors. I'm here on  
3 behalf of Richard Subia.

4 One of our questions was asked about what do we  
5 do with the deputy -- district attorneys and the  
6 district attorneys getting their bills paid. We've had  
7 that problem, and with Richard Subia and the past  
8 secretary of prisons, we had those problems taken care  
9 of. They had an open-door policy. And I could say that  
10 as far as the people of Amador County, we are supportive  
11 of Richard Subia.

12 And Senator Steinberg, I haven't seen you since  
13 the Cappuccino days.

14 CHAIRMAN STEINBERG: Oh my God! We went to  
15 high school together?

16 MR. NOVELLI: I went to Riordan, but I met you  
17 at Cappuccino.

18 CHAIRMAN STEINBERG: Really? We'll have  
19 another hearing on those days.

20 MS. LUCIDO: He's always a hard act to follow.

21 My name is Jacqueline Lucido. I'm with the  
22 Amador County Chamber of Commerce, the Business Bureau,  
23 and the Economic Development.

24 I really -- I have a compassion for you people,  
25 and I'm probably very similar to what we're doing. We

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1 are overworked, underpaid, and understaffed, so I think  
2 we can agree what we have to do is to move forward.

3 Rich came to Mule Creek and made a terrific  
4 impact. Some of the questions you asked, I could  
5 probably answer for him. He started programs that were  
6 rehabilitation oriented, very much so. He was never too  
7 busy to come to any of the meetings, whether they be at  
8 the crack of dawn or in the evening. Small meetings,  
9 big meetings. His door is always open for individuals  
10 or groups.

11 I can't say anything but the highest praise for  
12 this man. He made Mule Creek something that we can be  
13 justifiably proud of in the county. And I hope he'll  
14 have special success in his new job, and I wish him  
15 well. And thank you, ladies and gentlemen.

16 CHAIRMAN STEINBERG: Thank you very much for  
17 coming to testify. Next. Anybody else? No.

18 All right. Anybody in opposition to the  
19 confirmation of the two nominees? If not --

20 SENATOR AANESTAD: So moved.

21 CHAIRMAN STEINBERG: So moved by Senator  
22 Aanestad.

23 I want to thank you both for your public  
24 service. You're obviously dedicated professionals who  
25 have gained a lot of respect. You're working in a very,

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1 very difficult environment, and it's going to be all our  
2 jobs together to make sure we improve the environment  
3 and improve the system. And I hope you don't view this  
4 confirmation process as the end of your relationship  
5 with the legislature and the Rules Committee, but only  
6 the beginning, because we need to continue hearing from  
7 you.

8 Please call the roll.

9 MS. BROWN: Senator Cedillo.  
10 Dutton.

11 SENATOR DUTTON: Aye.

12 MS. BROWN: Dutton aye.

13 Oropeza.

14 SENATOR OROPEZA: Aye.

15 MS. BROWN: Oropeza aye.

16 Aanestad.

17 SENATOR AANESTAD: Aye.

18 MS. BROWN: Aanestad aye.

19 Steinberg.

20 CHAIRMAN STEINBERG: Aye.

21 MS. BROWN: Steinberg aye.

22 CHAIRMAN STEINBERG: Thank you very, very much.

23 These nominations will move to the floor of the State

24 Senate and will be taken up within the next couple

25 weeks. Thank you very much.

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1 MS. DEAN: I have two former mayors from the  
2 City of Santa Rosa, Jane Bender and John Sawyer.

3 CHAIRMAN STEINBERG: Welcome to both of you,  
4 mayors.

5 MS. DEAN: And I also have the CEO of the  
6 Regional Board, Cat Kuhlman, and our chairman,  
7 Robert Anderson.

8 CHAIRMAN STEINBERG: Welcome.

9 MS. DEAN: And also I have a neighbor that I  
10 have shared many responsibilities with for the past  
11 15 years, Allen Thomas.

12 CHAIRMAN STEINBERG: Welcome.

13 All right. If you would like to speak about  
14 why you want to be confirmed, and I don't know if you're  
15 familiar with some of the opposition that arose, but if  
16 you want to address any of that in your opening  
17 comments, you're welcome.

18 MS. DEAN: Thank you. Well, I think, because  
19 I'm sure you're going to be asking me questions, I'd  
20 like to tell you a little bit about me personally.

21 CHAIRMAN STEINBERG: Of course.

22 MS. DEAN: My husband and I have been lifelong  
23 outdoor enthusiasts. We camp, backpack, were climbers,  
24 are scuba divers and sailors. We have traveled all over  
25 the United States and have explored the Caribbean and

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1 MR. SULLIVAN: Thank you very much.

2 MR. SUBIA: Thank you.

3 CHAIRMAN STEINBERG: Let's take five minutes.  
4 Thank you.

5 (Recess taken.)

6 CHAIRMAN STEINBERG: The Committee will come  
7 back to order, please.

8 I would like to welcome Carol Dean, who is up  
9 for confirmation for the North Coast Regional Water  
10 Quality Board.

11 If you want to come forward, please. Thank  
12 you.

13 Let me say as an opening -- Please have a seat  
14 and make yourself comfortable.

15 Ms. Dean was initially not asked to appear  
16 before the Rules Committee, but we have received several  
17 letters opposing her confirmation. And just as a matter  
18 of practice, when the Committee receives some  
19 opposition, we do ask the appointee to appear in person.

20 Let me begin by asking you if there's any  
21 member of your family or special guest that you want to  
22 introduce and then make a brief opening statement.

23 MS. DEAN: Yes, thank you. I do have some  
24 supporters here. My husband, Harold Dean.

25 CHAIRMAN STEINBERG: Welcome to you, sir.

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1 Central America and have always come back home with an  
2 appreciation for preserving our natural resources.

3 In 1983, my husband and I got a home in the  
4 West End neighborhood, which was built in the late  
5 1890s. It was a blighted neighborhood but what we could  
6 forward. We helped form a neighborhood association and  
7 reclaimed our neighborhood park, which was known as  
8 "Needle Park."

9 The West End became a historic district in  
10 1996. We spearheaded 13 neighbors to sue a landlord in  
11 small claims court who habitually rented to drug  
12 dealers, and we won. Neighbors have participated in  
13 general plan updates, redevelopment issues, and specific  
14 area plans. We are now an old-fashioned neighborhood  
15 that is rich in diversity with a first-rate live  
16 theater, many restaurants, and retail shops from yoga to  
17 appliances and antiques.

18 I was appointed to the Santa Rosa Board of  
19 Public Utilities in 2000 and served until 2007. During  
20 my tenure on the board, I saw the geysers recharge  
21 project completed and become operational. It now  
22 generates 85 megawatts of greenhouse gas free electrical  
23 power using recycled water, a truly sustainable project.  
24 The City now recycles 95 percent of its wastewater in  
25 normal years, and this year we recycled 100 percent.

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1 My philosophy is that most future development  
2 shouldn't occur within the urban growth boundaries of  
3 the cities, and that way we know that wastewater will be  
4 treated and recycled.

5 Also during my tenure on the BPU, we planned  
6 the pilot urban reuse project, instituted a prescription  
7 drug take-back program, which has kept more than 3,000  
8 pounds of prescription drugs out of the landfill and  
9 wastewater stream, and we increased its educational  
0 outreach regarding water quality issues.

1 When a summer fire broke out in the geysers  
2 area, part of the Audubon sanctuary was burned over.  
3 The board of public utilities voted to donate plans it  
4 had for its restoration of the area to Audubon to help  
5 it regenerate its bird sanctuary and wildlife habitat.

6 One of my proudest accomplishments was that I  
7 was instrumental in creating a public-private  
8 partnership between the City of Santa Rosa and the  
9 Laguna Foundation, and that enabled the Laguna  
0 Foundation to establish a learning center on City  
1 property along the Laguna de Santa Rosa and also to  
2 assist the foundation with riparian restoration  
3 projects.

4 My first meeting on the regional board was held  
5 in Weed, where the board heard updates on the

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1 implementation of the Shasta and Scott TMDLs. I was  
2 impressed that such divergent interest groups, including  
3 other governmental agencies, tribal interests,  
4 individual landowners, environmental groups, and  
5 U.C. Davis came together for the health of the watershed  
6 in a process facilitated by the regional board.

7 The TMDL process is an excellent example of how  
8 the regional board sets policy, approves permits, and  
9 that the success of the policy and permit restriction  
0 depends not only on the authority of the regional board  
1 but also on the credibility of the regional board.

2 We all know where the authority comes from --  
3 you, the legislature. Credibility is established  
4 through a fair and honest consideration of all issues  
5 surrounding a particular decision. We are in the final  
6 stages of adopting the Klamath TMDL, and my goal is to  
7 work on the implementation of both the Russian River and  
8 the Laguna de Santa Rosa TMDLs, which are just  
9 beginning.

1 The regional water board is responsible for  
2 protecting water quality. Policy, permit, and  
3 enforcement decisions it makes can have far-reaching  
4 implications for the environmental and economic health  
5 of the region. State law requires a balancing of these  
6 considerations, and I believe economic health is not

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1 possible without environmental health.

2 I am committed to fully consider all available  
3 information in making decisions to uphold state and  
4 federal water quality laws and regulations. And I have  
5 some handouts that I can give you that show some of the  
6 things that I think -- either the educational materials  
7 that I helped produce and some other information, in  
8 case you're interested. Thank you.

9 CHAIRMAN STEINBERG: Thank you. So you have  
10 six months left on your term, correct?

11 MS. DEAN: Correct. Until October.

12 CHAIRMAN STEINBERG: Are you going to seek  
13 reappointment after six months?

14 MS. DEAN: Well, I was planning on it, but I  
15 have to tell you this has been quite a grueling  
16 experience.

17 CHAIRMAN STEINBERG: What, the confirmation  
18 process?

19 MS. DEAN: The confirmation process and knowing  
20 that a lot of the opposition that has come out against  
21 me has not actually been water-quality issues in some of  
22 those letters. And it seems to be much more of a  
23 political thing than a truly environmental issue, and  
24 that kind of has me --

25 I think it actually detracts from what my job

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1 is on the water board, and it bothers me that the focus  
2 is going to be more on political issues than what the  
3 charge of the board is.

4 CHAIRMAN STEINBERG: Well, if I could summarize  
5 the way that I sort of have read some of the opposition,  
6 that there have been some concerns expressed about --  
7 let's call it political temperament, in terms of how you  
8 approach issues, how you work with others, et cetera.

9 There was one allegation in which you were  
10 alleged to have referred to bicyclists as, quote,  
11 "fringe radicals." Is that true, and what do you mean  
12 if it's true?

13 MS. DEAN: Well, again, that has nothing to do  
14 with water quality, but what I would tell you is that my  
15 neighborhood -- and there's some information there on  
16 the West End neighborhood. We have the Smart Rail  
17 corridor coming through our neighborhood. I don't know  
18 if you're familiar with Smart, but this is going to be a  
19 commuter rail line from Cloverdale to Larkspur. It's  
20 going to be 71 miles.

21 Adjacent to the track is going to be a class  
22 one bicycle path, off-the-road path. But there are a  
23 group of bicycle advocates that wish to put a class two  
24 lane down a neighborhood street that is less than  
25 50 feet from this bicycle path. The only way they can

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1 accomplish putting in this class two bicycle lane is to,  
2 one, tear down historic buildings, or, two, remove all  
3 the parking from viable businesses that are located  
4 along that street. And they are not willing to look at  
5 any other option except a class two bicycle lane.

6 CHAIRMAN STEINBERG: I'm not arguing the merits  
7 of the policy or who's right or wrong, and we all  
8 sometimes use, you know, colorful rhetoric at times in  
9 the political arena. I just -- "fringe radicals."  
10 It's just of some concern because --

11 MS. DEAN: Actually, I called them "special  
12 interest groups" --

13 CHAIRMAN STEINBERG: Not fringe radicals.

14 MS. DEAN: -- "that had radical viewpoints."  
15 But, you know, again, that was not from behind a dais.

16 SENATOR OROPEZA: It goes to who you are, hon'.  
17 You have to recognize --

18 May I?

19 CHAIRMAN STEINBERG: Go ahead.

20 SENATOR OROPEZA: I can appreciate what you're  
21 saying. We're all human beings, but when you're being  
22 evaluated as to whether or not you are qualified to seek  
23 and serve in a public -- on a public board, then who you  
24 are is relevant. Unfortunately, or fortunately, that is  
25 the truth.

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1 So it's very appropriate to ask, I think, you  
2 know, why would you call people something like "fringe  
3 radical." It goes to how you handle yourself in the  
4 public arena, even though you weren't behind a dais. Do  
5 you see my point?

6 MS. DEAN: Um-hmm.

7 SENATOR OROPEZA: I just want you to understand  
8 where we're coming from on this. I don't think it's  
9 particularly trying to, you know, cast aspersions on you  
10 or anything, but you have to be held accountable for the  
11 things you say. We all are.

12 CHAIRMAN STEINBERG: But you're saying you  
13 didn't make the statement?

14 MS. DEAN: I did not call them fringe radicals.  
15 I called them a special interest group with a radical  
16 viewpoint.

17 CHAIRMAN STEINBERG: Okay. Some others said  
18 you were -- initially when you got appointed to the  
19 board, you thought the water board allocated water.

20 MS. DEAN: No.

21 CHAIRMAN STEINBERG: That's not true?

22 MS. DEAN: That is not true. When I sat on the  
23 Santa Rosa City Council, one of the things that the  
24 council was concerned with was the water shortage and  
25 the possibility of a drought. And any statement that

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1 was made on water delivery would have been made as a  
2 statement as a city council member, not as a regional  
3 board member.

4 CHAIRMAN STEINBERG: Do we have questions? I  
5 not, why don't we hear from the witnesses. Witnesses in  
6 support. Witnesses in support here?

7 You can stay at the table, if you would.

8 MR. HARRIS: Sure.

9 Mr. Chairman, Richard Harris of the Nossaman  
10 firm on behalf of The Water Reuse Association. I  
11 apologize to the Committee. I think the client got the  
12 letter of support in late yesterday to the consultant,  
13 so maybe it hasn't been put out to the entire Committee.

14 But The Water Reuse Association is the State's  
15 water recyclers' public agency to treat sewage water to  
16 beneficial uses, and we are quite strongly in support of  
17 her nomination here, confirmation.

18 Based on her practical ability and her  
19 experience with the recycled water facilities in Santa  
20 Rosa and the geysers project, it's really a -- it would  
21 be great if we had that same sort of opportunity all  
22 around the state to be able to do that. But I think for  
23 these purposes, a person whose abilities and  
24 understanding of recycled water, we think that's a  
25 perfect person to have on this regional water board. So

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1 we're in strong support. Thank you.

2 CHAIRMAN STEINBERG: Thank you very much,  
3 Mr. Harris.

4 Other witnesses in support, please.

5 MR. ANDERSON: Mr. Chairman, Bob Anderson. I'm  
6 a member of the North Coast Regional Board, currently  
7 serving as the chair, and wanted to come and offer up my  
8 support.

9 Carol is a very knowledgeable person, very  
10 experienced. As a board member, she does her homework.  
11 She's honest. She's fair. She listens. And during her  
12 tenure, I haven't officially checked the record, but  
13 it's my sense during her time on the board all of the  
14 votes have been unanimous. And you've had other board  
15 members excused from appearing, so if those are okay, I  
16 believe Carol's votes with those votes would be okay in  
17 terms of her regional board participation.

18 To the discussion I heard earlier on the other  
19 issues, I would just offer up I was in the room when the  
20 city council was -- found itself with -- Santa Rosa City  
21 Council has seven members. One of them chose to leave  
22 before his term ended, and the council found itself in a  
23 three-three split and having to face appointing a new  
24 member and finding who they could all agree to, or at  
25 least find four votes that somebody could agree to, and

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1 there was something over 20 citizens of Santa Rosa  
2 willing to step up and be considered for that post, and  
3 they chose Carol. So I think that speaks well for her.  
4 CHAIRMAN STEINBERG: Thank you for coming to  
5 testify. We appreciate it.  
6 Any other witnesses in support?  
7 MR. THOMAS: Mr. Chairman and Committee. Can  
8 you hear me okay?  
9 CHAIRMAN STEINBERG: Yes.  
10 MR. THOMAS: My name is Allen Thomas, and I  
11 reside in the city of Santa Rosa, and I've known Carol  
12 for over 15 years.  
13 I had a great opportunity to serve with Carol  
14 in the function of being appointed to the City of Santa  
15 Rosa's planning commission where I served as chairman  
16 for two years, 2004 and 2005. And Carol was -- Also,  
17 I'm a neighbor of Carol's and have had the great  
18 opportunity to see Carol in the leadership role with  
19 our neighborhood and then her tenure on the City of  
20 Santa Rosa's BPU.  
21 She has the ability to bridge the gaps that the  
22 previous speaker talked about. Having the ability --  
23 and I'm sure none of you have these different groups in  
24 your particular areas -- but in Santa Rosa there's a  
25 development group and there's also kind of a slow-growth

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1 or a more pro environment, depending on how people  
2 define themselves. And Carol's been able, in my  
3 opinion, through the years, to transcend those  
4 divisions.

5 So I would wholeheartedly ask for you to look  
6 at her record based on the merits, and I would think  
7 that she would be a perfect candidate for the Regional  
8 Quality Control Board. Thank you.

9 CHAIRMAN STEINBERG: Next. If there are other  
0 witnesses in support, maybe you can line up so I know  
1 how many more we have here.

2 MR. SAWYER: Mr. Chairman, Members of the  
3 Committee, thank you for hearing me this afternoon. I  
4 think the speakers have spoken very well. It is Carol's  
5 balance that impressed not only the citizenry of Santa  
6 Rosa when they enthusiastically supported her as our  
7 appointee to the city council. I was part of the  
8 six-member city council and the immediate past mayor.  
9 She was --

0 CHAIRMAN STEINBERG: Could you say your name  
1 for the record.

2 MR. SAWYER: I'm sorry. John Sawyer. I  
3 apologize.

4 She was indeed a bridge in the two factions  
5 that exist in Santa Rosa, and a very effective one. And

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1 I think her commitment not only to her constituency but  
2 to the Board of Public Utilities for those seven years,  
3 which gave her a great deal of knowledge that we  
4 depended on as a council, but her commitment to the  
5 citizenry, to her constituents, to the environment, and  
6 to the people she serves, definitely during the last  
7 year, speaks for itself, and I wholeheartedly support  
8 her affirmation to this board and hope that you see  
9 likewise.

10 CHAIRMAN STEINBERG: Thank you.  
11 Welcome.

12 MS. BENDER: Thank you. Mr. Chairman,  
13 Committee Members, my name is Jane Bender. I've been on  
14 the Santa Rosa City Council for nine years, and I was  
15 the mayor for two years.

16 Carol was on the Board of Public Utilities  
17 while I was mayor. During her seven years, I have never  
18 heard one negative thing about her. Her work has been  
19 stellar on the Board of Public Utilities.

20 All of us in public life get opposition. That  
21 goes with the territory.

22 SENATOR OROPEZA: That's true.

23 MS. BENDER: It does, doesn't it?

24 However, I do have to say that we have just  
25 come off a horrendously divisive election, and I don't

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1 know how much of the opposition you're hearing could be  
2 spillover from the last election. But I'm here to tell  
3 you -- Please look at what she has done over her seven  
4 years, her stellar performance and what she's done over  
5 the last year on the Water Quality Control Board, and I  
6 hope you will confirm her appointment. Thank you very  
7 much.

8 CHAIRMAN STEINBERG: Thank you very much,  
9 Mayor. We appreciate it.

10 Witnesses in opposition. Is there one witness  
11 or more?

12 MR. McENHILL: I think there's probably a  
13 couple.

14 Thank you, Chair. My name is Don McEnhill.  
15 I'm here representing Russian Riverkeeper. I'm also  
16 appearing on behalf of a number of other river-  
17 conservation organizations, Russian River Watershed  
18 Protective Council, The Coast Action Group, Redwood  
19 Empire Trout Unlimited, and a dozen other groups  
20 unfortunately could not be here due to declining funding  
21 for nonprofits and other issues.

22 I want to thank you for conducting this  
23 hearing. Listening to the previous comments about  
24 Ms. Dean being a consensus player, one of the things  
25 that really has bothered us about the decisions of the

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1 Board of Public Utilities during Ms. Dean's tenure has  
2 been several attempts to fight 303(d) listings. I have  
3 turned in a number of letters that show how -- and I can  
4 actually quote a few things.

5 In January of 2006, a letter from the City of  
6 Santa Rosa to the state water board argues that listing  
7 the Laguna for nutrients is not supported by materials,  
8 and they argued about the U.S. EPA's application of  
9 criteria which is used around the country to determine  
10 whether a water body is polluted with nutrients or not.

11 This was one of about nine communications to  
12 the water board arguing against the listing, and one of  
13 the biggest sources of those nutrients is the City of  
14 Santa Rosa, their previous waste-water discharges and  
15 their current storm-water discharges.

16 We have -- I've got a number of documents, if  
17 you would like the record of those decisions, but in the  
18 2006 listing process, 29 entities, 29 groups, supported  
19 the listing, including the executive officer of the  
20 Regional Board for Nutrient Impairment Laguna. One  
21 entity opposed it. The City of Santa Rosa and Mrs. Dean  
22 certainly did not oppose that action while she was on  
23 the board of public utilities.

24 The City has been trying to institute mixing  
25 zones on the north coast. I think it's opposed by all

1 the environmental groups. And what we're really  
2 concerned about is that in reviewing over 80-plus sets  
3 of minutes from the Board of Public Utilities and a  
4 year's worth of minutes from her tenure on the city  
5 council, there is not one instance where she is on  
6 record in speaking out in favor of clean water.

7 And the other thing we're concerned about is  
8 the constituency Ms. Dean might represent. I'm not an  
9 environmental advocate. We are fairly apolitical when  
10 it comes to elections and things, but, certainly, not  
11 having a lot of information in the form of her making  
12 comments at meetings, we reviewed the funders who  
13 supported her candidacy for city council, and out of  
14 \$25,800 raised, or 24, all but \$400 came directly from  
15 developer interests.

16 And our concern is that Ms. Dean certainly has  
17 learned everything she's learned about water quality  
18 from her tenure on the board of public utilities, which  
19 represents the City's interest. She seems to have broad  
20 support from the development community. But if she's  
21 confirmed, she is no longer an elected official or an  
22 appointed official from the City, and she would not have  
23 a duty to recuse herself from voting on Santa Rosa  
24 items.

25 One of the most contentious is the Santa Rosa

1 and Sonoma County storm water permit. That item was  
2 heard by the city council a few months ago, and I made  
3 comments and actually shared water-quality data which we  
4 developed with citizen bond readers and, actually, in  
5 conjunction with the city as well, that showed  
6 incredible amounts of nutrients, metals, and other  
7 things which are polluting the Laguna de Santa Rosa.  
8 Several of the council members asked questions and  
9 indicated they supported it, but there seemed to be no  
10 comments coming from Ms. Dean.

11 The opposition to the storm water permit was  
12 purely economic reasons. And, certainly, a recent field  
13 poll showed that Californians, even in this budget  
14 crisis, support environmental regulations to protect our  
15 environment, and we do not feel comfortable with  
16 Ms. Dean on the board, being that her constituency does  
17 not seem to be the general public or in support of clean  
18 water, from our view of her record.

19 I think the other thing -- When we hear things  
20 like "consensus player," if that was really true, you  
21 would have a lot of support or some support from the  
22 environmental community, and to the best of my knowledge  
23 in polling all the different groups, we have seen none.

24 CHAIRMAN STEINBERG: You haven't seen outright  
25 opposition, though, either. Usually, if this was a big

1 deal to the environmental community, we would hear from  
2 them directly.

3 MR. McENHILL: I don't know what letters you  
4 have -- what letters you received.

5 SENATOR OROPEZA: We don't even have the groups  
6 that you mentioned.

7 MR. McENHILL: You don't have Brenda Adelman's  
8 from the Russian River Watershed Protection --

9 SENATOR OROPEZA: Yes, but the 12 groups that  
10 you mentioned.

11 MR. McENHILL: I can't speak for those groups.  
12 I have told them, and they have told me they have sent  
13 letters, and I guess they did not make it in. That is  
14 what I've been told. And people like Ken Macintosh, who  
15 intended to be here representing -- he's the president  
16 of Redwood Empire Trout Unlimited -- called me yesterday  
17 and said he was horribly sick, because he was in a  
18 conference this weekend, and I can't speak for those  
19 people who didn't send.

20 CHAIRMAN STEINBERG: You've spoken well for  
21 yourself and the entity you represent. We appreciate  
22 very much your testimony. Thank you.

23 MR. McENHILL: Thank you.

24 CHAIRMAN STEINBERG: Next witness.

25 MR. KRAMER: Thank you, Mr. Chairman. My name



1 is John Kramer. I'm hear representing the -- how would  
2 we describe it -- the largest environmental organization  
3 in Sonoma County. It's Sonoma Conservation Action. We  
4 have 7,500 members -- dues-paying members in the county.

5 We are -- in fact, have been for years  
6 concerned about water quality, and we are probably the  
7 organization most responsible for the geysers project  
8 that takes a lot of the sewage from Santa Rosa and pumps  
9 it up to the geysers where it's made into electricity,  
0 so....

1 I have a letter that we have sent to you -- I  
2 have a copy of it. I didn't know whether it got here,  
3 so I've made copies -- signed by our executive director.

4 CHAIRMAN STEINBERG: We have the letter, and we  
5 will make the letter part of the records.

6 Mr. KRAMER: You don't need the copies from  
7 Sonoma County --

8 CHAIRMAN STEINBERG: No. Recycle them.

9 MR. KRAMER: Recycle them. I'll do that.

0 About six or seven or eight years ago, the City  
1 of Santa Rosa proposed to dump wastewater, treated to  
2 some degree, into the Russian River, and that was the  
3 number one plan chosen by the City.

4 Our members sent to the city council  
5 approximately 200 letters of opposition, and these are

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1 letters individually written, not a postcard that we had  
2 preprinted for them. But they felt strongly about it,  
3 as did everybody in the county, and a lot of the  
4 counties downstream of the river.

5 As a result, the city council turned around and  
6 it created this project, which wasn't the cheapest  
7 project, but it involved keeping the sewage out of the  
8 river and -- and reusing it to make -- using it to make  
9 electricity up at the geysers. So those are our  
0 credentials.

1 In addition, we -- our members and our elected  
2 officials monitor other elected officials, and once a  
3 year we put out for every city in the -- in our area, in  
4 Sonoma county, a scorecard of the elected officials. We  
5 do that through the lens of the -- of our environmental  
6 concern. There are two scores. One score is for how  
7 well people listen to the -- There are remarkable  
8 differences, as you all well know, how people listen and  
9 then how people react on our issues.

0 So with that kind of background, let me read to  
1 you our next-to-last paragraph --

2 CHAIRMAN STEINBERG: Okay.

3 MR. KRAMER: -- concerning Ms. Dean.

4 Our report card watchers gave Ms. Dean a grade  
5 of D minus for her voting, on a scale A to F, and C

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1 minus for how well she listens and responds to the  
2 public.

3 SENATOR AANESTAD: This is when she's on the  
4 city council or --

5 MR. KRAMER: My mistake, Counsel. This was the  
6 last -- this was 2008.

7 SENATOR AANESTAD: Okay. Not her work on the  
8 board.

9 MR. KRAMER: Not her work on the public  
10 utilities board. This is on the --

11 CHAIRMAN STEINBERG: Or on the current board  
12 that she's up for confirmation on.

13 MR. KRAMER: That's right. This is on the city  
14 council, on her city council.

15 CHAIRMAN STEINBERG: Okay.

16 MR. KRAMER: And that scorecard is attached to  
17 the letter that we sent to you --

18 CHAIRMAN STEINBERG: We'll review it.

19 MR. KRAMER: The comments were "A real  
20 disappointment so far. Went back on her promise not to  
21 run after her appointment."

22 She was chosen as a neutral to replace the city  
23 councilman who resigned, with a pledge that she wouldn't  
24 run again, that she would do the work for two years and  
25 then someone else -- we would have a full-blown

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1 campaign. And that pledge was reported in the paper.  
2 And I think her going back on that promise is one reason  
3 the local newspaper did not support her for reelection.  
4 She voted against campaign finance reform and advanced  
5 planning fee.

6 And one last comment. At the time she was  
7 appointed to the water quality control board, there is a  
8 quote from her -- Miss Dean stated -- this is from the  
9 newspaper, *The Press Democrat*. "She expects the biggest  
10 issue the Regional Water Board will face during her  
11 tenure will be allocating water among competing  
12 interests and developing the infrastructure to deliver  
13 it." That's a quote from our local newspaper.

14 CHAIRMAN STEINBERG: Okay.

15 MR. KRAMER: In sum, it's -- Miss Dean is a  
16 nice person and, no doubt, a well-meaning person, but  
17 these -- this seat on the Water Quality Control Board  
18 could be personed by someone that has real expertise in  
19 water quality and is dedicated to making sure that we  
20 maintain....

21 CHAIRMAN STEINBERG: Okay. Thank you very  
22 much, sir. We appreciate it.

23 I appreciate the well-articulated concerns in  
24 opposition of the people who traveled here to testify,  
25 but a couple things stand out.

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1 Number one, in terms of Ms. Dean's actual  
2 record on the Water Quality Control Board, no one has  
3 pointed to an action or a vote which raises some  
4 concern. In fact, but for two recusals because she  
5 recognized, I suppose, a conflict of interest, she voted  
6 with the board majority, in fact, unanimous decisions  
7 across the board.

8 The other thing is that the criticisms  
9 themselves do relate to positions she took, or  
10 performance, if you will, in other chapters of her life.  
11 When you factor -- When you factor that with the fact  
12 that there's only six months remaining on the term for  
13 this particular seat, on balance, I'm inclined to  
14 support the confirmation, because I don't think there's  
15 been overriding evidence presented to the contrary.

16 I will say this: That if you are seeking  
17 reappointment, I think you have some fences to mend  
18 here. And usually for this sort of seat, we don't get  
19 significant local opposition here.

20 So I'm prepared to support you and have you  
21 serve the last six months, but if you're going to want  
22 to continue, I think we would prefer, obviously, not to  
23 see -- You've got to reach out and talk to some of the  
24 people who are skeptics.

25 Senator Oropeza.

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1 SENATOR OROPEZA: I just want to share that I  
2 have -- I will support the chair's recommendation on  
3 this, but I do have to say I have a little bit of a  
4 different spin just in this regard: I think that when  
5 candidates come before us, they come before us as whole  
6 people, with everything that they've done, with their  
7 entire record.

8 What I feel comfortable in this six-month  
9 appointment is that while I have heard that Ms. Dean has  
10 not been an outspoken advocate, I haven't heard that she  
11 has aggressively worked against the issues --

12 CHAIRMAN STEINBERG: Right.

13 SENATOR OROPEZA: -- related to the work of the  
14 Water Quality Board or other environmental concerns.

15 And so it's sort of in that vein that I would  
16 certainly support this, and I would also chime the same  
17 tune as the chair relative to we have to learn from the  
18 experiences that we go through, and if you -- in this  
19 next time, should you be confirmed by the entire Senate,  
20 I hope you take it as an experience which has taught you  
21 some things about how to proceed in the future.

22 CHAIRMAN STEINBERG: Senator Aanestad.

23 SENATOR AANESTAD: I intend to support you  
24 today and, hopefully, next time. Just because this has  
25 been, maybe, a distasteful occurrence -- This is the

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1 political process. This is what many of us live with  
2 every day in this building, and it's just part of the  
3 deal.

4 Whether or not you get confirmed this time or  
5 next time, at the end of the day you're going to go out  
6 and have supper, and it's going to be just as good, and  
7 life will be just as good the next day. So I would urge  
8 you to continue to be the independent, well-thought-of  
9 person that you have shown and that your witnesses have  
10 shown you to be and remain independent.

11 I can forgive you for a bad vote -- for  
12 example, when you voted to impeach President Bush and  
13 Cheney -- and I'm hoping that the environmental  
14 community can forgive some of the things they think are  
15 on that bad list, because what I have seen when we  
16 review your actions -- and not just what people are  
17 writing on a piece of paper, which is a political  
18 exercise, but, you know, that's part of the game. I've  
19 seen someone who is thoughtful and who has got the  
20 recommendations of people that she's worked with and has  
21 proven that she is independent and knows what the job is  
22 and does it. And I hope you continue to do that.

23 And my fear is -- is that with the admonition  
24 to reach out and try to mend fences, you'll start to  
25 actually believe that you need to do it their way

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1 instead of your way, and then you might lose my vote the  
2 next time.

3 So I would just urge you to be your own  
4 independent person and make each vote the best vote that  
5 you can think of, and your training in this job, and  
6 you'll be back again in another year, and, hopefully,  
7 we'll confirm you again.

8 CHAIRMAN STEINBERG: The only thing I would  
9 add, and I agree with what you said, Senator Aanestad,  
10 it's not inconsistent to reach out to the skeptics and  
11 opposition and still vote independent. You can do both.  
12 In fact, I would argue that you have to. So good.

13 Is there a motion on the nomination?

14 SENATOR DUTTON: Moved.

15 CHAIRMAN STEINBERG: Moved by Senator Dutton.  
16 Please call the roll.

17 MS. BROWN: Senator Cedillo.  
18 Dutton.

19 SENATOR DUTTON: Aye.

20 MS. BROWN: Dutton aye.

21 Oropeza.

22 SENATOR OROPEZA: Aye.

23 MS. BROWN: Oropeza aye.  
24 Aanestad.

25 SENATOR AANESTAD: Aye.

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Senate Confirmation  
Richard J. Subia, Associate Director  
Division of Adult Institutions  
Responses to Senate Rules Committee Questions  
February 18, 2009

**Statement of Goals**

*The associate director, General Population Institutions (Levels 2 and 3) and Male Offender Camps, is responsible for nearly 41,000 men incarcerated in the following eight medium- and lower-security institutions: Avenal State Prison; California Training Facility; Chuckawalla Valley State Prison; Folsom State Prison; Ironwood State Prison; California State Prison-Solano; and California Correctional Center and Sierra Conservation Center, which both supply inmates to 41 fire camps. In addition, the associate director has responsibility for 13 community correctional facilities with about 5,400 inmates, about the same population as two years ago.*

*Under the department duty statement for this position, the largest share of the associate director's time – 40 percent – is to include visiting prisons to discuss, among other things, security arrangements, housing policies, labor relations, and litigation. The associate director is also supposed to collaborate with other associate directors to ensure uniformity in the way prisons are managed.*

- 1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as associate director for General Population Institutions and Male Offender Camps? How will you measure your success?**

I consider the Associate Director's position within the California Department of Corrections and Rehabilitation (CDCR) to have a primary responsibility in providing operational oversight, direction, and consistency in policy and practice within the nine General Population (GP) Levels 2 and 3 prisons, along with the Community Correctional Facilities (CCF) and Conservation Camps, in the Division of Adult Institutions (DAI). My goals as the Associate Director of the General Population Levels 2 & 3, Camps, and Community Correctional Facilities Mission are multifaceted. To accomplish these goals, I must focus on making certain that the prison environment is safe for our staff, offenders, and the public. The three main areas I focus on are:

**1. Staffing**

In order to maintain a safe and secure environment, I must ensure vacant positions are filled, overtime is decreased without jeopardizing safety, staff are properly trained to perform their job functions, and appropriate tracking measures are instituted to assist in evaluating procedural compliance.

**Senate Rules Committee**

**FEB 18 2009**

**Appointments**

I work closely with each of the GP 2/3 institutions in identifying problem areas with respect to hiring. Also, I will continue to work with the CDCR Human Resources Department on focused recruitment methods for difficult to fill positions and locations. While each of the prisons in the mission have similar custody requirements, the mission has a very diverse blend of locations: Ironwood State Prison (ISP) and Chuckawalla Valley State Prison (CVSP) in the far south by the Arizona border; the California Rehabilitation Center (CRC) in the Los Angeles basin; Avenal State Prison (ASP) in the San Joaquin Valley; the California Training Facility (CTF) in the Salinas area; and the California Correctional Center (CCC) in the far northern Lassen area. Due to these diverse locations, various methods to fill vacancies need to be employed including using focused recruitment methods, allowing Correctional Officer candidates willing to accept positions in remote locations priority to attending the Basic Correctional Officer Academy, and providing monetary incentives and stipends.

My management style involves working closely with the wardens at each of the nine prisons within the GP 2/3 mission. In addition to regularly visiting each institution, I hold monthly conference calls with each prison to discuss common issues and best practices which can be incorporated to best meet the CDCR's goals associated with staffing issues.

## 2. Inmate Programs

As the Associate Director over the mission with the lowest custody level prisons, I firmly believe I am in a position to deliver more programming time to the inmates whom I oversee. I work collaboratively with counterparts in the Division of Education, Vocations and Offender Programs (DEVOP), Division of Addiction and Recovery Services (DARS) and Division of Community Partnerships (DCP) toward expanding current treatment, education and leisure time activities. My goal is to maximize the amount of programs and programming time offered at each of the mission's institutions.

To accomplish this goal, I meet with wardens to ensure they are facilitating full-time participation in rehabilitative programs. The GP 2/3 mission is able to offer programming on substance abuse, Prison Industry Authority (PIA), Conservation Camps, and CCFs to a much greater degree than any of the other missions.

### 3. Inmate Fire-Fighting Conservation Camps

I am privileged to have Conservation Camps assigned to the mission. The Conservation Camps are an outstanding example of how inmates are able to provide public safety to the community. One of my goals is to increase awareness within the various government agencies on the valuable service inmates programming within the 41 fire camps provide in fighting fires throughout the entire state. I work closely with two of my prisons, Sierra Conservation Center (SCC) and CCC, who are responsible for training inmates for placement in the camps.

I maintain a liaison with the California Department of Forestry and Fire Protection (CAL FIRE) and the Los Angeles County Fire Department (LACFD); I have the responsibility for the research, planning, organizing, coordinating and operational analysis of the Conservation Camps Program of the CDCR. I monitor Camp Management Reviews, and Corrective Action Plans of all CDCR Conservation Camps to ensure that camps are operating in accordance with all relevant laws, policies and procedures. I also coordinate efforts with the CAL FIRE and LACFD to develop and implement methods to improve the role of the Camp Commanders as CDCR Agency Representatives on major incidents (fire, flood, earthquake, etc.).

In addition to my three main goals, I have also targeted the following areas for achievement:

- Reducing violence by offenders towards staff and other offenders;
- Working with the Division of Correctional Health Care Services (DCHCS) to ensure offenders are provided full access to essential health care;
- Incorporating corrective actions and training needs identified through various audits by departmental staff and external agencies;
- Identifying and developing future candidates to assume warden and other manager positions in our department;
- Ensuring visiting programs are monitored for quality and consistency.

The measurement of my success will be in continually monitoring progress made in the aforementioned areas.

I believe my experience serves me well in selecting, mentoring, and monitoring the wardens within the mission. I believe my subordinates, peers, and supervisors view me as a resilient, ethical leader. These qualities and my professional experience will serve



me well in managing the day-to-day operations of this complex adult prison system and in accomplishing my goals. I fully appreciate the magnitude of the responsibility vested in me as the Associate Director of the GP 2/3 correctional facilities. I recognize the opportunity I have to be an integral part of the CDCR shift back to a model that facilitates offender change. I fully appreciate the opportunity to "give back" to the public benefits I have enjoyed as a civil servant.

**2. *As you evaluate the institutions under your management, what are your highest priorities?***

As I evaluate the multifaceted needs of the nine institutions, 41 Conservation Camps and 12 male CCFs under my management, I have identified a common theme of prominent priorities that exist at each institution.

- Maintain appropriate offender population at each facility

As the Associate Director of the low-level offender population, I work to ensure that the institution population levels are appropriate and that each offender is housed in the facility that will provide him the greatest benefits. The Conservation Camps provide the highest opportunity for rehabilitation through a tangible skill-building work program and by providing support for the surrounding communities through fire fighting and wild land fire protection support. The 12 CCFs provide a community dorm setting and the opportunity for rehabilitation through community work crews, therapeutic self-help groups and vocational programs. The Department is experiencing a significant decrease of inmates eligible for the camp and CCF programs. Inmates who meet the camp and CCF program criteria are also eligible for other minimum custody programs within the Department. In an effort to identify additional eligible inmates for these programs, I have developed task forces for each program to identify strategies that will increase inmates in these pipelines.

Through weekly population meetings with the Department's stakeholders including the Population Management Unit, Transportation Unit, DCHCS, DARS and the Associate Directors from each mission, we are able to make decisions regarding the appropriate housing of our offenders.

- Support the visiting programs at each facility

I support each warden's inmate family reunification efforts and ensure their visiting programs operate within departmental policy making certain that approved family and friends have access to the visiting facilities at each institution. As the Associate Director, I have the responsibility to address complaints related to an institution's visiting program. I ensure the visiting staff at each institution are provided the departmental-approved training and I review

their weekly visiting statistics reports. I monitor the Inmate Family Council (IFC) minutes from each institution and attend the statewide IFC meetings in an effort to identify any barriers to a successful visiting program. I participate in the Visiting Warden's Activity Group (WAG) and work to provide recommendations to further enhance the visiting program.

- Identify the structural needs of each facility

I rely on the wardens and their management staff to continuously monitor the structural soundness of their institutions. By addressing, prioritizing and correcting the structural deficits, the goal of ensuring the safety and security of the institution is met. Facility modification and development is needed to support the program expansions and litigation requirements. Through audits, monthly reports, management reviews and personal tours, I ensure that plant operation issues are identified and addressed via the appropriate state processes. I work in conjunction with the Facility Planning, Construction and Management Division (FPCMD) to ensure the proposals are approved timely and resources are available to complete the projects.

**3. *Please describe the management training you received for your current assignment.***

My management experience began prior to my employment with the State of California while enlisted in the United States (US) Navy. I served in the US Navy for four years receiving an Honorable Discharge at the level of Petty Officer 2<sup>nd</sup> Class. During my enlistment, I was responsible for managing a significant portion of flight operations on a US air craft carrier. This experience taught me the importance of identifying the strengths and weakness of individuals from diverse backgrounds and ensuring they are trained and being utilized to their utmost abilities. I believe this experience assisted me in my transition to a law enforcement career.

I began my career with the CDCR approximately 23 years ago. I have gained an extensive working knowledge throughout my tenure, promoting through the ranks holding the positions of Correctional Officer, Sergeant, Lieutenant, Captain, Associate Warden, Chief Deputy Warden, Warden and, for the past 14 months, Associate Director for the DAI.

My current assignment finds me charged with oversight of nine Level 2 and 3 institutions, 41 male offender Conservation Camps, and 12 CCFs. My career has provided me opportunities to work in the fields of institution operations, employment and labor law, communications, gang suppression, internal affairs, and narcotics investigation. I have had the opportunity to work at five institutions and with inmates of all security levels.

I have completed studies in management and criminal justice at Central Texas College and Sacramento City College. I have also completed specific coursework in administrative and labor law at University of California – Davis and McGeorge School of Law.

In addition to my practical management experience, I have participated in formal classroom training. These programs include:

- |   |  |
|---|--|
| • Internal Affairs Investigation                                | San Jose State University                                      |
| • Administrative Hearing Advocacy                               | University of California – Davis                               |
| • Criminal Investigation  | Sacramento City College  |
| • Homicide/Death Investigation                                  | Sacramento City College  |
| • High Stakes Employment Litigation<br>Advanced Course of Study | Continuing Education of the Bar                                |
| • Selected Issues in Workers Compensation                       | Continuing Education of the Bar                                |
| • Fundamentals of Employment Law Practice                       | Continuing Education of the Bar                                |
| • Criminal Investigation  | California Department of Justice                               |
| • National Incident Management Systems                          | Office of Homeland Security                                    |
| • Conflict Management Training                                  | Department of Corrections                                      |
| • Training-for-Trainers   | Department of Corrections                                      |
| • SPB Precedential Decisions                                    | California State Personnel Board                               |
| • State and Federal Drug and Alcohol Testing                    | Office of Environmental, Health<br>and Safety Management       |
| • Labor Relations and Grievance Handling                        | State Training Center  |
| • Leadership Development Training                               | IBM Work Force Solutions                                       |
| • Discipline and Labor Problems                                 | Americans for Effective Law<br>Enforcement, Inc.               |
| • Employment and Labor Law                                      | Little, Mendelson, Fastiff, Tichy<br>and Mathiason Law Offices |
| • Leadership Development Studies Program                        | Phi Theta Kappa  |

### **Budget Crisis**

4. ***Please describe how the prisons under your management have been affected by the state's budget crisis. What specific program and staffing reductions have your prisons experienced?***

Each of the institutions under my management have been negatively impacted by the state's budget crisis. In order to meet this challenge, fiscal resources have had to be re-directed from pre-approved projects to cover basic operational needs. The program



areas that have suffered the greatest impact include plant operations and institution maintenance, inmate self-help and leisure time activity groups and staff training and professional development.

Facility repairs and preventative maintenance have been scaled back and their resources directed to cover higher priority projects that relate directly to the security of the institution or satisfy recent litigation. Court mandates for the *Armstrong* case ordered the facility operation programs to ensure program and housing accessibility for each inmate covered by the Americans with Disabilities Act, but did not provide any additional staff resources. Although hundreds of special repair projects have been approved by the FPCMD, the Department has been forced to prioritize its needs and allocate funds only to select projects. My staff and I continue to work with each institution to identify their priority needs and collaborate with FPCMD and/or the Budget Management Branch (BMB) to secure the needed approvals and funding.

Inmate self-help and leisure time activity programs were temporarily suspended on July 31, 2008, due to the state's budget crisis. The majority of the self-help programs are funded through temporary help dollars which are allocated by the DCP. These suspensions led to the cancellation of established self-help programs and inmate leisure activity groups. Self-help programs were reinstated effective November 10, 2008, yet suffered a lag time in recruiting and resuming their programs. As permanent full-time employees, staff are dually-appointed to their position and to a sponsor position. Each institution's Community Partnership Manager (CPM) was instrumental in re-establishing the groups and tracking the inmate participation. Through collaborative efforts with DCP, I was able to address the barriers related to reinstatement of the inmate programs.

Travel and training not directly related to prison operations were suspended during this current fiscal year. The outcome resulted in the decrease of staff training and professional development. The Department-sponsored leadership development training for managers, correctional academies and various promotional exams have been postponed until the next fiscal year. This has a direct negative effect on the staff in each of our institutions and in headquarters. I have encouraged the wardens at each institution to seek out no-cost alternatives for their staff to gain professional development experience through acting assignments or working in other classifications. I have always practiced this management technique and have seen the success it has provided to my staff.

5. ***Administrative segregation is the most costly form of incarceration at CDCR. The Inspector General recently released a report stating that too many inmates stay in "ad seg" too long. How do you respond to this criticism? Are you taking any of the Inspector General's recommendations? Which ones? What role do you and your wardens play in monitoring the time inmates spend in this costly housing?***

The Inspector General is accurate in stating many inmates stay in Administrative Segregation Housing Units (ASU) too long. In the past, housing and transfer of inmates from ASU was contingent only upon the custody level of the inmate. However, in recent years, a number of additional categories related to the housing of ASU inmates have been added to the equation. While the custody level of inmates is still a major factor in the safe placement of ASU inmates, institutional staff must now also consider the inmate's need for Sensitive Needs Yard (SNY) placement, medical status, mental health status, physical disabilities, and developmental disabilities prior to being able to release an inmate from an ASU. These additional categories place limitations on where an inmate is eligible to be housed or what institutions are available for transfer.

On a weekly basis, the population management unit produces reports that reflect numerical information related to ASU filled/vacant beds and staffed capacity. I review these reports and discuss the identified issues with the wardens of the impacted institutions.

During a weekly "Beds Meeting" at headquarters, all departments involved with offender population management work collaboratively in assessing statewide population issues. Through these interactions, focus is placed on various options for movement of specific types of populations. I provide a copy of the department's weekly ASU overcrowding report to each of my assigned wardens with direction to focus on reducing the need for ASU overflow.

While the Inspector General's report addressed issues at one prison in the GP 2/3 mission; the California State Prison, Solano (CSP-Solano), I am involved in addressing many of the recommendations at each of my assigned institutions as follows:

1. Investigation Timelines

Whenever an inmate is placed in an ASU, the institution is required to see the inmate in an Institutional Classification Committee (ICC) within ten days to determine the appropriateness of placement and steps needed to address the placement issues for release back to a GP setting. I hold wardens, as chairperson of the ICC, responsible for ensuring issues are addressed in an expedited manner consistent with the need to maintain safety and security of the institution.



I believe most investigations into issues related to ASU placement should be completed within 30 days and in many cases prior to the initial ICC hearing which is held within 10 days. In my recent conference calls with GP 2/3 wardens, I have reiterated this expectation. On a monthly basis, I review each institution's ASU populations and the average length of stay for their ASU inmates. Within the past six months, I have been involved in audits completed at four of the eight GP 2/3 institutions which have ASU's. Three of the four institutions audited have average length of stays under 70 days, and the fourth institution (CSP-Solano) has seen a recent decrease in their average length of stay by 50 days.

## 2. ASU Tracking Logs

The standardization of ASU tracking logs is a CDCR issue. In December 2008, I directed staff to perform an audit of each GP 2/3 institution as to the type of tracking log utilized and the information captured. While all institutions appeared to be capturing similar information, I discovered each institution uses different formats for their tracking log.

The wardens all have systems in place to monitor and track disciplinary matters and active investigations that may have an impact on the duration of an offender's placement in ASU. Recent meetings have been held to explore standardization of ASU tracking logs department wide. I will remain proactive in the process of improving this system.

## 3. Effective Comparative Statistics Tracking

One of the Inspector General's recommendations concerned capturing information on inmates who had been in ASU longer than 200 days. In December 2008, I directed my staff to perform this audit. I discovered the majority of inmates remaining in ASU over 200 days was due to two reasons; the inmate was pending transfer to a Security Housing Unit (SHU) facility, or the inmate was pending outcome of a court action. I will remain proactive in exploring options to allow for the creation of additional SHU beds in the department and working with local District Attorney's Offices to remove barriers in the prosecution of cases for those offenders housed within ASU.

I take a multifaceted approach in monitoring time inmates spend in ASU housing. On a regular basis I review issues at each of the GP 2/3 institutions. I talk to each of my wardens on measures they are taking to reduce the need for overflow housing, and in reducing their institution's average length of stay. The majority of the GP 2/3 institutions have very efficiently-run ASUs. When auditing each institution, I also look at "best practices" from the efficiently-run ASUs in an effort to incorporate these practices mission-wide. Whenever issues arise with one of my ASU's, I instruct the warden to



develop a corrective action plan to best address the deficiencies, and I follow-up to ensure the deficiency is effectively resolved.

### **Prison Operations and Consistency**

*Until the department's 2005 reorganization, prisons were overseen by four regional administrators. With the reorganization, the structure changed to five mission-based associate directors who report to the department secretary. Under this system, similar institutions are organized together and overseen by an associate director.*

- 6. *The stated goal of the mission-based system is to achieve consistency over prison policies and practices in areas such as custody arrangements, visiting, and programs. After more than three years, what are your examples of success and what issues are needing more attention as you seek consistency?***

The mission-based system has achieved consistency in my mission in the areas of housing, offender services, lockdowns, and use of force reviews. The GP 2/3 institutions, based upon their lower custody levels, are better able to offer programming options to our offenders. As such, my mission is able to work as a team in sharing best practices, and being able to discuss possible solutions amongst peers.

An example of success would be in the ability for the mission's wardens to network with each other in transferring inmates amongst the GP 2/3 institutions on occasion. For instance, SCC is the pipeline for inmates transitioning into the southern Conservation Camps. A number of the Level 2 inmates housed at SCC are not eligible to participate in the camps program. At ASP, we have a PIA poultry farm program. Some of the inmates at SCC who are ineligible for Conservation Camps do meet the criteria for the PIA program at ASP. Through the mission-based program we are working together in transferring inmates to better provide access to inmate programs.

Within the GP 2/3 mission are a number of institutions which are older physical plants, and a few newer constructed prisons. For instance, Folsom State Prison (FSP) was first opened in 1880, and ISP was opened in 1994. Therefore, plant operations and needs are significantly different among the mission's prisons. Also, geographical locations within the mission are greatly varied. Issues related to the community are indigenous to each individual prison, and do not necessarily translate to common issues within the mission.

Areas that need more consistency include revising the methodology used to allocate funding for those institutions that support the conservation camps (SCC and CCC). Operating expenses such as feeding and protective work clothing are more costly at the camps. Working within the Mission process, I have identified the need to have

consistent special repair and maintenance funding to support the plant operations and structural needs for those institutions that were built from the original prison design plan. Five of the nine institutions under my management (FSP, CRC, CTF, SCC and CCC) are among the oldest prisons within the department and would benefit from an increase in facility operations allotments.

**7. *As you scrutinize institutions, what do you look for to determine whether a prison is operating well? What are the red flags you look for? Is there a mechanism in place to share this information/best practices among the prisons you oversee?***

The first impression anyone has when visiting and evaluating an institution is on the cleanliness. I believe much can be determined operationally immediately upon walking into my institutions. A warden, who takes pride in how their prison is maintained, is paying attention to details. In evaluating an institution operationally, the following areas need to be scrutinized:

- Is the physical plant well maintained?
- Is the institution maintaining appropriate staffing to facilitate all necessary operations?
- Do the warden and staff have sound knowledge and physical application of the Department's Classification System?
- Are the Operational Procedures and Post Orders up to date?
- Does effective communication exist between staff and offenders in order to bring resolution to issues?
- Is there an effective training program to maintain the needs of staff?

I monitor key indicators that provide a view of the status of significant areas of institutional operation. Red Flag issues are brought to my attention generally through my personal tours of the prisons, monitoring the day-to-day issues which arise at each of my institutions, and through the Department's standardized Computer Statistics (COMPSTAT) reporting process. Areas I monitor for Red Flags include:

- Communication with Inmate Advisory Groups, Inmate Family Councils, and Citizen Advisory Groups;
- Inmate access to programs;
- The inmate appeal process focusing on overdue appeals and recurring issues;

- Efforts of drug interdiction and suppression;
- The use of excessive employee sick leave;
- The effective management of the employee grievance program;
- The presence and use of an effective employee discipline process;
- Correspondence received from offender families and inmate advocacy groups;
- Management of the institution's authorized staff capacity;
- Management of ASU Beds and overcrowding;
- Management of fiscal resources within Operational Budget allocation;
- Systems related to the management of lockdowns and modified programs;
- Unusual or significant Workman's Compensation injuries and claims;
- Functioning academic and vocational education programs and the availability of religious and self-help group programs;
- Offender and employee morale;
- The number and nature of significant inmate disturbances;
- Inmate access to medical, mental health, and dental appointments;
- The appropriate housing of inmates with physical disabilities;
- Work orders submitted and the addressing of plant operation issues;
- Efforts to control contraband within the institution.

At a minimum, on a monthly basis I hold conference calls with the GP 2/3 wardens to discuss current issues and to share best practices. Wardens take this opportunity to talk about issues they are encountering and solicit ideas from their peers. On an almost daily basis I share e-mails with all of my wardens on current issues facing institutions and on current CDCR events. I encourage my wardens to keep open lines of communication with each other, and regularly discussions are opened amongst us via e-mail on the various issues. In addition, several times each year CDCR holds warden's meetings where all of the Department's wardens have the opportunity to discuss current events and share best practices. During these events, breakout meetings are held with the GP 2/3 wardens where issues can be discussed in a face-to-face setting.



**8. *What role do you play in ensuring that prisons under your supervision are fully engaged in their rehabilitation missions? How do you communicate with program staff that provide education and treatment? Are improvements needed? If so, please describe.***

As the Associate Director, my role is to support and monitor each prison's rehabilitation mission. In collaboration with the Division of Adult Programs, the wardens, their community and their inmate population needs, the team is able to best identify rehabilitation opportunities.

I recently participated in the Performance Accountability and Improvement Process (PAIP) meeting led by Division of Adult Programs at each of the institutions. This process was developed by Adult Programs, in collaboration with DAI and Division of Support Services, to ensure that performance expectations relative to inmate rehabilitative programming are clearly defined and directly linked to budgeted resources. The purpose of the meetings is to provide an overview of the PAIP process, identify overall rehabilitation programming goals and objectives unique to each institution, review the budget allocation and set the performance expectation and timeframes. The goals of the PAIP for in-prison rehabilitative programming are threefold:

1. To create a statewide approach, structure and process through which to expand rehabilitative programming;
2. To establish a shared understanding about current and future performance expectations relative to rehabilitative programming;
3. To establish a fair, equitable and accountable process for establishing performance targets and monitoring the progress of each institution in expanding rehabilitative programming and achieving outcomes.

As a result of this program, I have the ability to review and provide input to the initial and annual program performance plan along with any corrective action plan for the programs. The COMPSTAT process and report also provide me with an overview of how each institution is managing their rehabilitation mission resources and will identify any barriers to programming.

I provide oversight during the implementation of any new rehabilitation program within the institution. A current example is the initial Assembly Bill (AB) 900 pilot program at CSP-Solano. Each week I meet with Adult Programs, DEVOP, DARS and other department stakeholders involved in implementing the "Proof Project" at CSP-Solano. These weekly status report meetings allow me to monitor the progress and ensure departmental policy is integrated within the new program. In conjunction with BMB and FPCMD, I review each institution's request for resources whether it be staffing via a

Budget Concept Statement or for additional program space via the Capital Outlay Budget Change Proposal (COBCP) process.

Improvements are needed to ensure that the offender is placed in the most beneficial program in a timely manner. Through the use of the COMPAS Assessment Tool, staff are able to classify the offender's risk category for re-offending and place him in the correct treatment module. The Department is currently evaluating COMPAS processing in the Reception Centers to determine the possible need for expanded resources.

**9. *When there is a lockdown or modified program, meaning that activities of some inmates are limited, what role do you play in reviewing the situation and making recommendations about whether the lockdown should be lifted?***

As the Associate Director, anytime there is a lockdown, modified program, or change in program status lasting more than 24 hours, I receive notice from the GP 2/3 institution. The affected institution will notify me via a Program Status Report (PSR) which describes the actions taken and efforts being used to move the institution back towards normal programming. On a daily/weekly basis, the institution will provide updates on the PSR until such time as circumstances provide for the safe return to a full program.

A PSR contains several components that are reviewed and monitored by the Associate Director: Part A, provides the initial notification and is submitted within 24 hours of the precipitating incident; Part B, identifies the daily plan of operations for the effected yard/offenders; Part C, provides a weekly recap of efforts and progress toward resolving/closing the issues that created the need for the modified program; Part D, is a mission group roll-up of all of the institutions that may be on modified program during a given week; and Part E, is a 60 day evaluation of a modified program and provides for additional strategies that may be implemented to bring resolution to a modified program.

In the event a lockdown or modified program lasts beyond 60 days, I require my wardens to conduct telephone conference calls with me in an effort to assist in evaluating information available that may lead to the need for the extended modified program/lockdown, and to share ideas which could lead to resolution. I offer insight and guidance in moving forward with investigations, assist in the transfer of offenders, as well as functioning as liaison with the Office of Correctional Safety (OCS) for conducting independent threat assessments, and share "best practices" which have been beneficial at other institutions. I encourage my wardens to consider methods of resolution "outside the box." For example, ASP recently had a slow resolving issue between two factions of inmates. In an effort to bring resolution to the conflict, ASP offered anger management courses to inmates willing to participate as an incentive to ending the lockdown. I have also worked with wardens on developing "step down processes" such as resuming programming for inmates based upon age, and developing in-cell study programs. When appropriate, I will direct wardens on moving forward with de-escalation



efforts when contradictory indicators no longer exist. Upon resolution of lockdowns, I share effective techniques with other wardens in the mission.

**10. *How do you keep yourself apprised of what is happening inside the prisons? How often do you personally visit the prisons under your management?***

I am exceedingly fortunate that CDCR has a variety of internal and external tools to measure performance. Invaluable tools, such as Daily Briefing Reports, Incident Packages, Monthly Budget Plans, audits, Corrective Action Plans, offender information database generated reports, appeals, monthly conference calls, red flag reports, week at a glance report, office binders, court compliance monitoring reports, Adult Program participation reports, lockdown reports, Office of Inspector General reports, Bureau of State Audit reports, litigation driven reports and Legislative Analysts Office reports are all available to me to assess benchmarks of performance.

However, the enormity of available information requires that I rely on the experience of various division chiefs to assist in monitoring the information and informing me of areas of concerns. I also interact with various divisions in the organization, such as Office of Court Compliance, Office of Research and the Office of Audits and Compliance, to assist me in evaluating individual institutional performance. The reinstitution of the Operational Peer and Security Reviews in the prisons has been extremely effective in recognizing areas in the institutions that are very successful and areas that require improvement. I routinely review these performance measure tools to identify "red flags" and seek solutions to address them, whether the information demonstrates deficiencies such as low attendance in institutional programs or that a facility is projected to exceed its budget authority.

To remain informed of potential issues and review performance, I have regular meetings with the GP 2/3, Camps, and CCF mission staff who are charged with assisting me in the oversight of the institutions. During those meetings, we discuss and share information, review management reports, identify red flag issues, and develop strategies to address those issues. When necessary and appropriate, I advise the CDCR leadership when a significant issue of concern should be elevated above my level for information and potential support in implementing a resolution.

Since assuming the responsibilities as Associate Director, I have maintained my commitment to establishing collaborative partnerships with my wardens and executive staff. To this end, I am in continual contact with all of the wardens and evaluate performance based upon the outcomes of systemic audits, statistical data and analysis provided through our COMPSTAT process, open lines of communication and personal visits to the institutions.



I have visited all GP 2/3 institutions numerous times; I have conducted physical tours of 25 percent of the 41 Conservation Camps and several of the CCFs. I make it a goal to conduct site visits twice per month based on need and budgetary constraints. I also avail myself 24-hours per day to provide effective oversight and guidance to all institutions in the mission under my leadership.

### **Proof Project**

*In September 2008 CDCR publicly announced the launching of the "Pathways to Rehabilitation" project, designed to identify needs of inmates within three years of release and provide them with necessary academic and vocational programs to make a successful transition into the world outside of prison. This idea had previously been described as the "Proof Project." In the program, inmates will be given a risk and needs assessment upon entry to the Deuel Vocational Institution, and then when inmates arrive at Solano State Prison, under your jurisdiction, they are to receive the identified services.*

#### **11. *What is its status? What role has the custody staff under your supervision played in helping develop and coordinate this initiative with the program staff and what role will you play in evaluating its success?***

The "Pathways to Rehabilitation" Project has progressed from Track I to Track II at CSP-Solano, which is the GP pilot site.

In Track I, CSP-Solano, with the assistance of staff from the DAI and Adult Programs, maximized inmate access to rehabilitative programs within existing resources. Custody staff at CSP-Solano played a vital role by reviewing existing custody practices and procedures which would conflict with programs. Through that review, a 24-hour master calendar was completed to address all institutional activities in 15-minute increments. Where conflicts existed, they were addressed through changes in operations or adjustments to time.

In regards to the risk and needs assessment, the Deuel Vocational Institution (DVI) Reception Center completed the COMPAS risk/needs assessment training in October 2008, and is currently utilizing the tool as a part of the intake processing. In addition, all reception center staff have been trained on the COMPAS tool and are utilizing the tool as a part of the intake process. The next step in the process is the utilization of the COMPAS tool to assign inmates to rehabilitative programs, not only at CSP-Solano, but at all GP institutions. Adult Programs has developed a draft Case Management Plan to address the process for assigning inmates to rehabilitative programs, tracking their progress, and transition to parole. Adult Programs is in the process of preparing a notice to the affected bargaining units to implement Case Management as a pilot at CSP-Solano, with an eventual roll-out to all institutions.

The custody staff under my supervision have played a vital role in the implementation of the "Proof Project" (as it has been titled by Adult Programs) at CSP-Solano. I have been directly involved in the weekly project update meetings, chaired by Carole Hood, Chief Deputy Secretary, Adult Programs, which includes all her team leads. In addition, I identified an Associate Warden at CSP-Solano to be a co-project lead to work closely with the project lead in Adult Programs. This Associate Warden was assigned to ensure that all facets of custody operations are considered and addressed with the realignment of existing programs and roll out of new programs. In addition, the Associate Warden was responsible for the removal of any custody "barriers" to program success.

Over the past six months, CSP-Solano has successfully implemented, through negotiations with affected bargaining units, a traditional 5/8/40 work schedule for rehabilitative programs staff and custody staff. This change will not only maximize the number of hours an inmate is actually assigned to a rehabilitative program, but also maximizes the effectiveness of that time, as the inmate is no longer required to be in the same classroom for up to eight hours a day. CSP-Solano has also implemented a new 500-slot Substance Abuse Program (SAP) utilizing newly constructed modular buildings. In the coming months, the inmate assignment office at CSP-Solano will be changing program assignments from the existing week on/week off process (an inmate will be assigned to SAP and education on alternating weeks) to a half day work assignment (e.g.: SAP in the a.m. and education in the p.m.).

Although there is much work remaining to be done, the custody operations at CSP-Solano are prepared to assist Adult Programs in the full implementation of the "Pathways to Rehabilitation" Project. I and my staff will remain directly involved in the weekly project update meetings with Adult Programs.

### **Visiting**

*A key to rehabilitation is ensuring inmates maintain contact with their families through prison visits. At Solano, inmates and family members say visitors often must wait two to four hours, often without protection from sun or inclement weather, because visitor processing takes far too long. Visits can often be terminated early due to overcrowding.*

#### **12. Please describe any efforts you are making to reduce the wait times and improve visiting conditions.**

With the support of the Joint Legislative Budget Committee, Reducing Recidivism Strategies (RRS) savings for Fiscal Year 2007-08 was reallocated to enhance visitor processing centers at those institutions with inadequate space. Both CSP-Solano and CTF were approved for modifications to their visitor centers to be accomplished with the



purchase of modular buildings. These proposed modular buildings were priced at \$500,000 each and were approved in support of the importance of family and community support in effective offender programming as recommended by the Expert Panel. Savings from the Third Day Visiting program (\$500,000) that resulted from staff positions being filled later than budgeted, as well as \$1,000,000 from other RRS savings were allocated to refurbish the visitor centers at additional prisons and enhance the visiting children's playgrounds.

The PIA received the purchase orders for the two modular buildings and began the preliminary planning and design for CSP-Solano and CTF. Due to budgetary cuts, the \$1,000,000 in allocated funding for the modulars was disencumbered in August of 2008. As the Associate Director for these two facilities, I will continue to seek funding in the current fiscal year to support the purchase of these visitor processing modulars.

I regularly attend the statewide IFC meetings on a quarterly basis to ensure that inmate family issues are being heard and addressed pertaining to visiting and other areas. Additionally, I have assigned mission-based staff to attend all local IFC meetings at the institutions in an effort to ensure visiting programs are being monitored for quality and consistency.

I am working within the WAG to review two appointment process models developed at ASP and ISP, which have proven to be successful in minimizing visitor processing wait times at the respective institution.

At ASP, prior to developing the appointment scheduling process, the visiting department experienced the following issues:

- Visitors lining up on the side of the road or in the institution parking lot at 0400 hours in the morning on visiting days;
- Large group of visitors standing outside the entrance to the Visitor Processing door;
- Due to the visitors arguing over who was to be processed next, the institution was unable to process all visitors in a timely fashion. This resulted in visitors being turned away and unable to visit when many had traveled hundreds of miles to visit.

After developing the visitor appointment scheduling process the institution no longer experienced the aforementioned issues. The visitors utilizing the appointment scheduling process are very pleased with the process. Some of the benefits accomplished were:



- The visitors no longer arrived on institution grounds at 0400 hours. Most visitors currently arrive on grounds no more than one half hour prior to their appointment time;
- The visitors line up in an orderly fashion which has improved visiting staff's processing time. The institution is able to process approximately twenty-five visitors through the computers every fifteen minutes;
- The institution allows the visitors to schedule their appointments two weeks in advance while at the institution attending a visit. This allows for frequent visitors (visitors that visit every weekend) to make their appointment in person and reduces the amount of telephone appointments received.

ISP has developed an online visitor reservation system. Visitors have the ability to register their visit online. The process grants groups of 25 visitors, who register online, the ability to be processed efficiently in sequential order starting at one half hour intervals on specific visiting days and also provides a number of stand-by slots for those visitors not using the online registration system. This process:

- Assists the institution in alleviating the congestion at the visitor processing centers;
- Reduces the number of visitors waiting for extended periods of time in their vehicles in an attempt to be first in line for a visit;
- Gives institutional staff an estimate of the number of visitors and the inmates who will be receiving a visit;
- Allows for feedback from the visitors via an online survey.

**13. *Why do some prisons such as Avenal use an appointment system that appears to reduce visitor processing times while institutions like Solano continue to struggle with long waiting times?***

As indicated in the previous response, the WAG is reviewing the implementation of the appointment scheduling process model that has successfully been used by ASP, as well as the ISP visitor reservation project model in which appointments are made using the internet. We are using the best practices approach with intent to implement a combination of the ASP and ISP models statewide.

Prior to the implementation of the appointment scheduling process, ASP was experiencing many of the same problems as CSP-Solano, such as long visitor lines, early morning line-ups on visiting days, large groups of visitors standing outside of the entrance to the visitor processing area.

It is anticipated that once the new system has been implemented, long visitor lines will dissipate. Visitor processing will also be conducted orderly and expediently.

Additionally, the warden I recently hired at CSP-Solano was previously assigned to ASP as the Chief Deputy Warden and was instrumental in the implementation of the appointment scheduling process. I have discussed CSP-Solano's visiting issues with the Warden and immediate attention has been placed on correcting the deficiencies CSP-Solano is experiencing in the visiting program.

### **Staffing**

*The prison population remains around 172,000. The average annual cost to incarcerate an inmate is about \$46,000. Your prisons had 280 correctional staff vacancies as of November 2008, down more than 370 from November, 2007.*

- 14. *What are you doing to reduce the number of staff vacancies and recruit and train new officers, especially at such remote prisons as the California Correctional Center in Susanville or at prisons near locations with high cost of living such as those in Soledad? To what do you attribute the staff vacancy rate dropping over the past year?***

In early 2004, the Correctional Training Center in Galt was closed. Due to the closure, CCC had 55 vacant Correctional Officer positions. CCC and High Desert State Prison (HDSP) (which also was experiencing high vacancy rates) partnered in creating a satellite academy in Susanville, California. With a vision of recruiting candidates that would prefer to work in Susanville, the satellite academy initiated an aggressive focused recruitment of local candidates. Advertisement of the satellite academy was accomplished via local radio stations, newspapers, and the Employment Development Department. Staff from both prisons held job fairs in Susanville and in the surrounding cities/counties. After receiving applications, personnel from both prisons made personal telephone contacts with each of the applicants, to verify the applicant was committed to attending the academy. Testing was conducted in Susanville in a joint effort between the Office of Peace Officer Selection and staff from CCC and HDSP. Galt academy staff conducted the cadet training. The satellite academy began in May 2006, and concluded with graduation in August 2006. The academy graduated 82 cadets, which were evenly divided between CCC and HDSP.

In addition, interested supervisors were hired to work in secondary appointments as Correctional Officers, to fill remaining vacancies. Also, eligible retired employees were recruited to work as Retired Annuitant Correctional Officers.

Due to retirements, promotions and transfers, CCC and HDSP continued to experience high Correctional Officer vacancy rates. The two prisons continued their aggressive



recruitment efforts and proposed conducting a second satellite academy. Radio and newspaper advertisements were successful in identifying interested candidates. Again, staff from both prisons attended fairs in surrounding counties (including Reno, Nevada) providing interested individuals with information how to pursue a career with CDCR, focusing on the Correctional Officer classification. Custody supervisors were present to address specific questions about what to expect as a cadet, and eventually, as a Correctional Officer. Staff with personnel expertise were present to assist the interested parties in completing the applications and to explain the testing process and timelines. Over 500 applicants expressed a desire to pursue a career as a Correctional Officer. Testing was conducted at the local high school, administered by staff from the Office of Peace Officer Selections. As a result, 155 candidates successfully completed the testing process. A second satellite academy was not approved however, as the Galt Correctional Officer Academy had resumed in January 2005. Candidates interested in continuing their pursuit were afforded the opportunity to attend the Galt academy, and were assured that they would be assigned to the institution of their choice, upon successful completion of the academy.

Since that time, CDCR has streamlined the application/background/testing process and successfully filled vacancies at all 33 adult facilities. The intra-institutional transfer process has also been altered to allow the wardens to manage their vacancies more efficiently and not release a staff member for transfer if it were to negatively affect their staffing. This has been successful in reducing the vacancies at the prisons located in high cost of living areas such as CTF.

In October 2007, the Level III Lassen gymnasium at CCC was deactivated as an inmate housing unit. Due to this deactivation, CCC lost approximately 16 Correctional Officer positions. Staff assigned to the Lassen Gym were utilized to fill various vacant posts. In June 2008, the CCC main gymnasium was deactivated. Due to this deactivation, approximately 19 additional Correctional Officer positions were lost. Again, staff assigned to posts in this gym were utilized to fill various vacant posts within the institution.

As of this date, CCC has all Correctional Officer vacancies filled.

- 15. *What role do you play in developing a "bench" so that senior managers are available and ready to step into associate warden and warden roles? Senior managers always seem to be in short supply at CDCR. What could be done improve this situation?***

Mentoring of wardens and future wardens is essential to producing effective departmental leaders of tomorrow. Mentoring is fostered by means of several different methods. Wardens participate in enhanced training utilizing the national correctional model, sponsored by the National Institute of Corrections; peer and leadership training; team building exercises; associate director acting roles; quarterly meetings held with all



institutional wardens; and continuous interaction with their executive staff, and Associate Directors of the other missions.

While assigned as the Warden at Mule Creek State Prison (MCSP), I played a very active role in developing my management team under my supervision. I encouraged my management team to read books on leadership, to examine the different concepts and philosophies of successful leaders. I dedicated time to discuss the concepts and philosophies outlined in the different books read, and I would ask thought provoking questions. I also met with them after their attendance of departmental leadership training, reviewing their "Leadership Practices Inventory," and shared my views on their ratings. I was open and honest about my perceptions of their strengths and weaknesses and challenged them to set personal goals for leadership growth.

I spent a significant amount of time with the management team as a group, discussing strategies for addressing particular issues. For instance, I would meet with them prior to meetings (with outside entities, Men's Advisory Council, bargaining units, etc.) and talk about defining the objective of the meeting and putting together a strategy to meet the objective. After the meeting was over, I would meet with the management team again to debrief and discuss what we could learn from the experience. I also met with the management team numerous times to develop strategies for improving relationships in the community. MCSP had serious issues at the time I took over as Warden; the perception in the community was that the institution was a bad neighbor who had broken promises for years and polluted the groundwater. I implemented a multi-pronged approach to address the issue. I routinely met with the local City Council and County Board of Supervisors, cultivated a positive relationship with the local press, and implemented Christmas toy drives and other charity events to give back to the community. I implemented a number of other strategies as well and as a result, community relationships and public perception of MCSP improved dramatically during my tenure as Warden. During the entire process, the management team was kept in the loop and I personally learned a lot about changing perceptions by implementing well thought out courses of action.

I believe in spending time explaining my actions to my management team, and more importantly, explaining why I take specific actions. I believe in putting actual "tools" in management team toolboxes that they can use at a later date. Many of the management team that I supervised at MCSP have promoted and have moved on to various management positions within the Department. They have shared with me that they have employed many of the management techniques learned from me on a regular basis.

As a manager I have continually invested in the success of future leaders by practicing the latest types of management techniques; identifying potential leaders; and by

providing constructive criticism. I am involved with the Human Resources Department in establishing a succession plan and an appropriate mentoring tool to include course work.

### **Contraband**

- 16. *Department officials have warned about the growing security threat from the smuggling of mobile telephones into prisons. It was reported that over 600 cell phones were found inside Solano State Prison alone. How are you addressing the problem of inmates' access to cell phones?***

The issue of inmates having access to cell phones is a departmental-wide issue, not just at CSP-Solano. Over the past three years, over 4,000 cell phones have been found in CDCR prisons statewide. The wardens at CSP-Solano have taken a very proactive approach to searching in an effort to find all contraband, not exclusively cell phones. Largely due to their efforts over the last three years, this prominent issue directly related to the safety and security of inmates and staff has been highlighted.

I am the executive sponsor of a WAG which is exploring available options to stem the flow and use of cell phones in prisons by inmates. The WAG is looking at ways to stop cell phones from entering prisons, methods to discover cell phones within the secure perimeter, how to render cell phones inoperable in a prison, and on increasing penalties for inmates caught in possession of cell phones. The following options are being explored:

#### **1. Stopping Cell Phone Entry into Prisons**

The three main methods of contraband, including cell phones, being introduced into a prison are; staff, visiting, and packages. I am working with the OCS and the Office of Internal Affairs (OIA) on conducting "Operation Disconnect" at various prisons within the GP 2/3 institutions. "Operation Disconnect" involves OCS staff arriving unannounced at an institution and conducting thorough searches of all items being brought into the prison by staff. The operation has been successful in several instances of discovering staff bringing cell phones, and other forms of contraband, into a prison's secure perimeter.

In addition, the WAG is exploring the development of staff entries into a prison being similar to security checks at airports. My staff has also been involved in determining methods used by Corrections Departments from other states to ascertain a viable system for CDCR.



2. Cell Phone "Jamming" Options

The WAG is collecting data on available systems which would render cell phones inoperable within their secure perimeters without effecting surrounding communities.

3. Cell Phone Detection Options

The WAG, in conjunction with OCS, is collecting data on cell phone detection systems available for purchase. In addition, the use of canines is a viable option in detecting cell phones. This option is still in the evaluation stage.

4. Increased Penalties for Cell Phone Possession in a Prison Setting

Currently, it is not against the law for an inmate to possess a cell phone or for a staff member to bring a cell phone into a prison for an inmate. Also, CDCR regulatory policy prohibiting inmate possession of a cell phone is commensurate to an inmate found in possession of minor contraband. Regulatory policy is in the process of being changed to increase penalties for inmates found in possession of a cell phone. CDCR is attempting to sponsor legislation which would make introduction and possession of cell phones in a prison setting a crime.

**17. *Efforts have been discussed to strengthen the inspection of items being brought into prisons by visitors and employees. What are you doing to address the continuing problem of inmate access to illegal substances?***

As discussed in the previous response, the three primary means of contraband entering a prison are through staff, visitors, and packages. Within the GP 2/3 institutions, we have taken a hands-on approach to address inmate access to illegal substances.

With regards to staff bringing contraband into institutions, I am working with the OCS and the OIA on conducting "Operation Disconnect" at various prisons within the GP 2/3 institutions. "Operation Disconnect" involves OCS and OIA staff arriving unannounced at an institution and conducting thorough searches of all items being brought into the prison by staff. FSP, San Quentin State Prison (SQ), and CSP-Solano were piloted in this operation. The operation has been successful in finding staff bringing contraband including cell phones, tobacco, and even weapons into a prison's secure perimeter.

Within the Cell Phone Interdiction WAG of which I am the executive sponsor, we are evaluating instituting enhanced security measures for all persons entering a prison. The security provided upon entering an institution is envisioned as being similar to the



security provided at airports. Both staff and visitors would be subject to these requirements.

I believe the gathering of intelligence is vital to discovering contraband in a prison. The more training we provide CDCR staff, the more secure we can make our prisons from inmates possessing contraband. I encourage the GP 2/3 wardens to provide training to all of their staff on identifying signs of staff misconduct related to contraband introduction, and on keeping their work places secure from inmates accessing items which can jeopardize safety. When touring my institutions, and during audits performed at each institution, I pay close attention to the warden's efforts in conducting regular and thorough searches of all areas under their purview.

### **Cell Integration**

*In the summer of 2008, CDCR announced that it would begin implementing the racial integration of cells – as per a court settlement – at two prisons, including Sierra Conservation Camp under your jurisdiction. At Sierra, many inmates initially balked at cooperating with the program.*

**18. Please give us your assessment of cell integration and its current status at Sierra. What are the barriers to successfully implementing the program at your facilities? When will widespread implementation be a reality?**

Integrated housing at SCC has been operating effectively on the Level III SNY facility which contains celled housing. This facility is the only area with celled housing at SCC. The challenges that are presented are on the Level I and II facilities that are GP inmates living in the dorms and gyms. The inmate "culture" is not allowing inmates to accept the Integrated Housing Program (IHP). Currently, we are experiencing a 90 percent non-participation rate for inmates received into the institution. This also affects the Conservation Fire Camp pipeline as the inmates that are eligible for camp placement come from this population. These refusals occur during the housing process as the correctional officers are escorting the inmates to their assigned beds. If they are not assigned a double bunk with their own race, they are refusing and stating inmates won't allow them to bunk with another race without retaliation of violence. Although there has been minimal violence behind IHP, currently, the black population is the only race willing to comply with the program. SCC is not having a problem following the procedures/policies as they are written; however, CDCR is evaluating a change in the current regulations (increasing the seriousness of the rules violation) as it will encourage the inmates to "want" to participate in the IHP.

It is extremely difficult to attempt to change the inmate culture with only 3,000 GP inmates at SCC. As more institutions come online, the inmate population will participate more readily, and this will show that participation in the program has become routine.

The IHP process is still very new and we have yet to complete a full cycle of the process. It will take approximately six months for a full cycle of the IHP process to be completed. This will include the process beginning at reception and continuing through the appeals process, as well as the inmate disciplinary process or impact to the inmate's credit earning status (such as zero-earning status) that the inmates may be subject to for failure to participate. It is anticipated that implementation for the next two prisons will begin in three to six months.

### **Self-Help**

*The reorganization of 2005 redesigned the chain of command, separating program and custody administration into distinct units. The reshuffling has changed how different parts of the department relate to one another. Organizationally, for instance, the Division of Community Partnerships is responsible for self-help programs such as A.A. and N.A., but in practical terms, wardens have maintained operational control over self-help programs at their own institutions.*

#### **19. What role do you play in the operation of self-help programs? How do you coordinate with the Division of Community Partnerships?**

The implementation and operation of inmate leisure time activity groups is the responsibility of the wardens and their administrative staff. The warden has the authority to use existing resources such as staff sponsors, community volunteers, existing vocation or education programming space to meet the needs of the offenders.

My role as the Associate Director is to ensure that coordination occurs with the DCP during the creation and operation of self-help programs. A benefit of the 2005 reorganization has been the addition of the CPM position at each institution. This staff serves as the liaison between the warden and DCP. Through communication with the warden and the DCP, I ensure that the CPM position is filled in a timely manner and assist with any barriers to the hiring or training process. I have the ability to monitor each institution's self-help programs via the COMPSTAT reports.

During monthly conference calls with the prisons, I encourage the wardens to share their best practices used for inmate self-help groups as it relates to custody coverage, lockdowns, program space, and community involvement. The CPMs are encouraged to work together especially when they are in close proximity to each other as is the case with ISP and CVSP.



- 20. As a result of the state not having a final budget for several months in 2008, contracts for self-help programs such as A.A. and N.A. were cancelled or suspended. But in mid-December when Senate staff visited Solano, A.A. and N.A. still had not been reinstituted. Please explain the lag in restarting self-help programs, such as A.A., at your institutions.**

The Alcoholics Anonymous and Narcotics Anonymous programs at CSP-Solano fall under Inmate Leisure Time Activity Group (ILTAG) operations. During the budget restriction period in 2008, while the self-help programs were temporarily suspended, CSP-Solano administrative staff had an opportunity to thoroughly review the program's operational process. During this review, discrepancies were discovered between CDCR regulations and the ILTAG staff payment methods.

The program was restructured with specific rules, regulations, training, and supervision to be put in place prior to reinstatement to ensure compliance with departmental rules and regulations. Restructuring also led to the loss of primary sponsors due to vacancies resulting from resignations, removals, and/or changes in positions which no longer allowed for the qualifications and participation of the previous sponsors. CSP-Solano is currently actively recruiting to fill vacancies which will allow for the ILTAG programs to resume.

It should be noted that during the time used for restructuring the ILTAG programs, CSP-Solano has continued to offer 13 community based volunteer self-help programs, 13 religious based self-help programs, and 3 employee sponsored programs.

I have worked closely with CSP-Solano administrative staff and the OCP to establish a standardized template of bylaws, drafting Department Operations Manual supplemental policies, establishing comprehensive training curricula for sponsors, and actively recruiting sponsors to fill vacancies within the programs.

Other institutions in the mission were not affected in the same manner as CSP-Solano.

### **Substance Abuse**

*The department's internal statistical report for October 2008 listed about 3,400 substance abuse treatment slots at your institutions. Approximately 2,700 were filled.*

- 21. What responsibility do you have for initiating or monitoring substance abuse treatment programs? If you have a role, how do you relate to the Division of Addiction and Recovery Services? With more than 700 inmates waiting to get into these programs at prisons under your jurisdiction as of October 31<sup>st</sup>, who decides which inmates are admitted?**



***How do you assess the needs of inmates? What is the status of these programs in light of budget cuts?***

I have a direct role in initiating and monitoring substance abuse programs within the institutions and facilities under my jurisdiction. Within my mission, I provide oversight of six institutions and one Conservation Camp (Baseline) that provides a SAP.

I work closely with DARS and the Classification Services Unit (CSU), and on a constant basis closely monitoring and evaluating patterns of SAP vacancies within my mission institutions. I work collaboratively in assessing and developing effective strategies for reduction of inmates on the SAP waiting list. The decision of admitting inmates to the program falls upon criteria developed by DARS and CSU.

The needs of the inmates under SAP are assessed by institutional classification committees, local SAP counseling staff and the aforementioned units of DARS and CSU. However, it is my responsibility to ensure identified needs of the inmates involved in SAP are being addressed at the institutions. I do this by staying in constant contact with my wardens via telephone conference calls or sight visits to the institutions to provide guidance and oversight on the issues. Additionally, I have provided an expectation to the wardens that during times of institutional modified programs or lockdowns, SAP inmates are identified and assured their needs are being met via programs and services.

Since implementation at the Baseline Conservation Camp, the SAP has experienced success in facilitating full time participation in the program. The success of the program has warranted the consideration of expanding the program to other camps in close proximity to institutions with SAP. I strongly believe camp inmates are of lower risk, less likely to recidivate, and more likely to optimize from benefits offered in the SAP.

**Infrastructure**

*The Los Angeles Times recently reported on the quality of drinking water at North Kern State Prison, referring to high levels of arsenic. CDCR staff at a number of prisons bring their own water, choosing not to drink the water produced.*

***22. What is your responsibility for monitoring drinking water quality at the prisons under your management? If it is not your responsibility, who is responsible? Are you aware of any institution where water is judged unhealthy to drink?***

My responsibility as Associate Director is to ensure the wardens are providing appropriate housing and programs for their offender population. The wardens within my mission have a clear understanding of my expectation to report significant events and

issues concerning their institution, including unsafe drinking water conditions. Any unusual occurrence is immediately reported along with the recommendation for resolution. It is the warden's responsibility to ensure preventive maintenance and facility repairs are completed appropriately and timely. The warden and their management staff work in conjunction with the FPCMD to elevate major construction projects in the form of Section 6 requests, Special Repair Projects or Capital Outlay Projects. I review these proposals and ensure the project is in line with the institution's mission or need and work in collaboration with FPCMD executive staff to approve the project.

I believe having served as warden of a prison which faced significant waste water issues, I have a clear understanding of the Department of Public Health and the California Regional Water Quality Control Board mandates. Within CDCR, the FPCMD has the ultimate responsibility for monitoring and correcting drinking water quality.

The following institutions within the GP 2/3 mission have water quality compliance issues:

- CRC: On a rare occasion the institution's drinking water has tested high in coliforms. The water is treated with chlorine on a continuous basis to bring the water within acceptable drinking standards. Efforts to obtain a secondary system from the city of Norco are ongoing.
- SCC: Has noted reoccurring issues with turbidity within its water supply during periods of heavy rain. During these time periods, a secondary filtration system is rented and utilized until the periods of heavy rains pass and the water supply is within acceptable drinking water standards. SCC has received approval and funding via a Major COBCP to begin the process of installing a permanent secondary filtration system. SCC is working in conjunction with the FPCMD to complete the project.

Upon consulting with the FPCMD, I discovered that the California Institute for Women (CIW), which is managed within the Female Offender Program Services mission, has an existing water quality compliance issue:

- CIW: Drinking water has tested high in nitrates due to surrounding agricultural operations. The staff and inmates have been informed to stop using the water for drinking purposes. The institution has provided an alternate water source for consumption by means of bottled water. Efforts are ongoing to install a denitrification plant at California Institute for Men which provides the water source to CIW to remove nitrates from the drinking water.

I am fortunate to have an extraordinary team of wardens who consult with me and with each other on a daily basis to resolve the myriad of operational issues.

### **Board of Parole Hearings**

*The Board of Parole Hearings typically will describe to life-term inmates the type of programs – such as obtaining a high school diploma or Alcoholics Anonymous – a prospective parolee should enroll in.*

- 23. How do you communicate with the Board of Parole Hearings regarding logistical support for the parole revocation and lifer hearings scheduled at your prisons? What processes do you have to ensure that this coordination is as seamless as possible to avoid postponed hearings? Do you encourage wardens to initiate discussions to inform commissioners of the programs available at your facilities?**

It is my expectation that the Board of Prison Hearings (BPH) Lifer Hearing process shall be conducted with the highest level of professionalism. In accordance with the *Rutherford* litigation, all efforts shall be made to prevent the hearing from postponement. Additionally, the Commissioners, Attorneys, Victim Next of Kin and inmates are to be treated with dignity and respect at all levels of the hearing process.

Communication with the BPH regarding logistical support for the Parole Revocation and Lifer Hearings is accomplished in two ways; by speaking directly to the Commissioners, either prior to the hearings or during the exit interview, and through direct communication with the Classification and Parole Representative (C&PR) to discuss issues that may have a negative impact on the BPH hearings.

As an example, the following process was implemented at ASP where the C&PR is the liaison between the BPH and the institution.

- The C&PR meets and introduces himself to the BPH Commissioners on the first day of their arrival to the institution;
- The C&PR ensures that the hearing rooms are clean and well maintained;
- The C&PR inquires if the Commissioners have any special requests or needs that would enhance the BPH process;
- The C&PR provides the Commissioners with an updated listing of the education, vocation and self-help programs currently available at the institution. He also provides the Commissioners with a telephone number should assistance be required during the BPH process.

The C&PR stays in direct contact with the Case Records Manager and the BPH desk for potential problems that could result in a postponed hearing.



Policies are currently in place and followed to ensure Lifer Hearings are not postponed, including the appropriate document production, adequate scheduling of attorneys and BPH psychologists for interviews, ensuring that reasonable accommodation and interpreter services are provided, if needed, and ensuring that the inmates are afforded their hearing rights prior to the hearing.

The C&PR has been delegated with ensuring that the Lifer Clipboards are completed prior to mailing them to the District Attorneys, Inmate Attorneys and the Commissioners, timely.

Additionally, the C&PR has been diligent in accessing and updating the Lifer Scheduling and Tracking System for the Lifer Hearings and the Revocation Scheduling and Tracking System for the Revocation Hearings.

This process has proven to be effective and is being shared as a "best practice" with other missions in the GP 2/3 mission.

1. The first part of the paper discusses the importance of the study and the objectives of the research.

2. The second part of the paper describes the methodology used in the study, including the data collection and analysis techniques.

3. The third part of the paper presents the results of the study, which show a significant positive correlation between the variables.

4. The fourth part of the paper discusses the implications of the findings and provides recommendations for future research.

5. The fifth part of the paper concludes the study and summarizes the main findings.

6. The sixth part of the paper provides a detailed discussion of the limitations of the study and the potential for further research.

7. The seventh part of the paper discusses the ethical considerations of the study and the measures taken to ensure integrity.

8. The eighth part of the paper provides a final summary of the study and its contributions to the field.

Senate Confirmation  
William J. Sullivan, Jr., Associate Director  
Division of Adult Institutions  
Responses to Senate Rules Committee Questions  
February 18, 2009

**Statement of Goals**

*The associate director of Levels III and IV is responsible for more than 35,000 men incarcerated in the following seven institutions: Calipatria State Prison, Centinela State Prison, California Medical Facility, California Men's Colony, Mule Creek State Prison, Pleasant Valley State Prison, and the California Substance Abuse Treatment Facility at Corcoran. In addition, starting in May a longtime Division of Juvenile Justice facility at Paso Robles is scheduled to be converted into the Estrella Correctional Facility for lower-level adult inmates.*

*Under the department duty statement for this position, the largest share of the associate director's time – 40 percent – is to include visiting prisons to discuss, among other things, security arrangements, housing policies, labor relations, and litigation. Part of the function is also to serve as a mentor and sounding board for wardens. The associate director is also supposed to collaborate with other associate directors to ensure uniformity in the way prisons are managed.*

- 1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as associate director for Level III and IV Institutions and describe your short- and long-term strategy? How will you measure your success?**

The responsibilities of the Associate Director include the provision of leadership and guidance to the wardens and executive staff of the seven institutions that comprise the General Population Levels 3 & 4 Mission (GP III/IV). Additionally, this position monitors institutional operations to ensure they are in compliance with state and federal law, departmental policy, and institution procedures.

During my tenure as Associate Director, I hope to establish a strong connection between the mission staff in headquarters and the institutions to foster an environment that will allow me to accomplish specific goals and objectives. My short-term strategy is to develop an environment where the staff in my mission are actively engaged in the issues being faced by our institutions. It is my vision to create a team approach where headquarters staff are a valuable resource to the institutions and to coordinate the efforts of other offices, departments, divisions and missions within the California Department of Corrections and Rehabilitation (CDCR) with institution efforts to successfully achieve their goals. I believe this approach will allow mission staff to recognize the vital role they play in ensuring the success of operations within the institutions to which they provide service. I also believe that this will better prepare them to assume positions of leadership and greater responsibility in the future.

Senate Rules Committee

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Commitments



To achieve this goal, I have tasked the associate warden within my mission to assign specific institutions and duties to the GP III/IV Mission staff. I have also solicited input from the staff on how to enhance their effectiveness and that of the mission. He and the other mission associate wardens have established a regular meeting schedule to address common issues between the missions, plan coordinated responses to assignments, and share best practices. This helps to ensure consistency of operations between institutions and missions, reduces duplication of effort, and allows for adoption of efficient and effective practices.

My long range strategy is to ensure the mission staff are included in the various reviews of institutional operations, as well as on-site peer reviews, to help develop relationships to ensure effective communication and resolution of issues faced by the institutions. I initiated this process by including mission staff in the Computer Statistics (COMPSTAT) review process. I have shared the same expectation of the wardens at the institutions. CDCR uses the COMPSTAT process as a tool for institution managers and mission staff to assess and manage institution operations and make needed adjustments before issues become unmanageable. Empowering the staff to assess data, identify problems and develop coordinated resolutions is the first step toward preparing our future leaders to better manage their areas of responsibility. The legacy I hope to leave is that staff I have worked with are well prepared to continually assess and evaluate their areas of responsibility, identify issues or concerns early on, make needed adjustments before problems grow, and ensure all impacted stakeholders are involved in problem resolution. Some of the specific goals I hope to accomplish are:

- Prepare inmates for re-entry through programs - To provide each inmate with the maximum opportunity for participation in programs that give him the best chance at a successful parole. Having followed an education based career path in CDCR, my focus will be on enhancing education programs in three basic areas. First, I am striving to ensure there are enough academic and vocational education programs to provide each inmate the chance to develop skills and abilities needed to succeed upon parole. Second, I want to make certain that existing programs are fully utilized and waiting lists are established to ensure program vacancies are filled immediately. Third, I am concerned with validating the effectiveness of programs in teaching inmates needed skills and abilities. Program effectiveness is probably the most important aspect of this approach because inmates are less likely to take advantage of programs that lack credibility with the inmate population.

The Substance Abuse Program (SAP) is also available at three of the institutions in the GP III/IV Mission. These programs are operated through contracted agencies specializing in the area of substance abuse treatment and the "therapeutic community." This is a holistic approach involving half-day

assignments with substance abuse counselors and the other half-day in an academic or vocational education program. My office monitors program attendance, the inmate population assigned to programs, and works with the institution, the Division of Addiction and Recovery Services (DARS) and Population Management to ensure maximum inmate participation.

Self-help programs are also important in the inmate's preparation for his eventual return to the community. The interesting thing about these programs is the fact that they are voluntary, which to me means the inmates participating find them to be credible and worthwhile. As a warden at the California Correctional Institution (CCI), I attended self-help group banquets, met with the volunteers and sponsors, and spoke to the participants. These visits were gratifying to me and demonstrated the Department's interest in and support of the self-help programs, and the participants' efforts at self improvement.

I will measure my success in advocating these programs by touring the programs at the institutions, talking to the staff, inmates and volunteers about the programs, and reviewing enrollment, attendance and program completion data provided by responsible areas and the COMPSTAT unit. Lockdowns and modified programs are monitored to ensure that program suspensions are limited in duration, and that uninvolved inmates are allowed to participate in programs during modified programs. I also personally participate in the Performance Accountability and Improvement Process (PAIP) process at each institution allowing me to observe the process and become familiar with the institutional obstructions that must be overcome to maintain an effective program.

- To ensure access to medical, dental and mental health care - The Associate Director assists the warden at each institution to address obstacles that prevent or adversely impact the inmates' ability to access care. Most of these relate to inadequate treatment space and vacancies in clinical staff positions that provide the service or staff/resources to get the inmate to appointments. In order to measure our success in this area, we constantly monitor inmate appeals, inmate or outside correspondence or other complaints relating inmate access to care. I also work with the institutions to resolve issues brought to the Office of the Ombudsman and ensure they are appropriately addressed by the warden. Additionally, I work with the individual ombudsman to assess these areas when they tour the institutions. While assigned as the Warden at CCI, I found the ombudspersons to be extremely effective in identifying and resolving problems and continue to utilize their services in my current position to provide an objective evaluation of the processes institutions have employed to resolve access to care issues. I coordinate with the wardens and ombudspersons to ensure that identified institutional operations deficiencies are appropriately addressed by the institution, and specific health care related



issues are referred to the Division of Correctional Health Care Services (DCHCS) and Medical Receiver's Office where their intervention is necessary. One example of these efforts is an ongoing backlog of medical appeals at the California Substance Abuse Treatment Facility (SATF) and the number of overdue appeals was growing at an overwhelming rate. My office worked with the warden, the SATF health care administrators and DCHCS staff in headquarters to develop a cooperative process that has subsequently dropped the number of overdue medical appeals substantially. We continue to evaluate our efforts during monthly conference until the issue has been completely resolved. Maintaining an open dialogue between the institutions, my office, and DCHCS is the most effective way to resolve the issues that arise.

- Ensure the timely implementation of the Integrated Housing Program (IHP) - Phase II of the IHP was implemented at Mule Creek State Prison (MCSP) and Sierra Conservation Center (SCC) in October 2008. This was accomplished through the Department's significant efforts to develop an overall plan which included regulation changes, development of program policy, a training plan which included the curriculum, communication and education of stakeholders impacted by the plan, establishing racial compatibility codes for each inmate in the Department, infrastructure modifications, and additional training to staff at MCSP and SCC prior to the implementation. Following the Phase II implementation, staff from the Division of Adult Institutions (DAI) continued to meet with the wardens and institution staff through our IHP Executive Steering Committee to evaluate and discuss issues encountered by each institution. During these meetings, we identified best practices, barriers to implementation, and developed policy and procedure changes to address issues related to technology infrastructure, inmate discipline and classification. These adjustments and changes are being incorporated into our implementation plans for future sites. We also continue to meet with the directorate and agency to share progress and discuss ideas and as we move forward.

Success will be measured via benchmarks being incorporated into the COMPSTAT monitoring process, IHP Peer Reviews and IHP-related incident reviews. The involved missions and institutions have worked with the COMPSTAT unit to develop IHP monitoring benchmarks. Additionally, the audit instrument has been completed and tested at MCSP to evaluate the institution's compliance to the IHP policy and the audit instrument's success in capturing the information we need to accurately assess the program. Incidents associated with the implementation are being monitored to ensure we progress while preventing unnecessary threats to inmate, staff and institutional safety and security. These processes will continue until the IHP has been successfully implemented at all institutions.



In addition to these goals, the GP III/IV Mission is involved in the development of a standardized protocol for addressing communicable and infectious disease exposure control incidents in the institutions. The protocol has been developed in conjunction with DCHCS to ensure these diseases are identified and contained rapidly, and to standardize CDCR's approach to exposure control incidents.

Another critical role of the Associate Director is to work with budget staff to ensure that our institutions are fiscally responsible. To accomplish this, our mission is working with the Program Support Unit (PSU) to identify staffing concerns that require correction, action, explanation or justification. Conference calls with the warden and institution administration are used to develop a plan for addressing problematic budget concerns. A common issue among the institutions is aging facilities in desperate need of repair such as leaking roofs, dilapidated kitchens, insufficient lighting, and deteriorating perimeter security fencing. When these issues are identified, institutions submit Capitol Outlay Budget Change Proposals, Special Repair Requests and Section 6 Requests to obtain funding and approval to commence with repair and replacement projects. Our mission works with the Facility Planning, Construction, and Management Division (FPCMD) to identify the necessary funding to complete these repairs.

**2. *As you evaluate the institutions under your management, what are your highest priorities, and how do you allocate your time and resources? How often do you visit each of your institutions?***

My first priority is to develop and maintain consistency of operations between institutions. Many of the complaints we receive relate to inconsistent procedures between institutions, inconsistent enforcement of policies between staff, and inconsistent interpretation of policies between institutions. These inconsistencies result in additional workload in the inmate appeals and staff complaint processes. In addition, identified misconduct creates an additional workload on the staff and inmate disciplinary process. Occasionally these inconsistencies result in incidents of increasing magnitude. The directorate has recognized the impact these issues have on operations and has developed work groups and Warden's Advisory Groups (WAG) to address areas of immediate concern. The associate directors, mission staff, and representatives from the institutions consider all areas of concern related to an issue, and work collaboratively to develop and revise policies that will provide operational consistency across the institutions.

The typical areas of concern are regulations related to inmate property, visiting, access to medical care, lockdowns and modified programs. One method of addressing these issues in our mission is to develop subject matter experts who are responsible for reviewing specific issues at all prisons within the GP III/IV Mission. Examples of these specific areas are visiting, use of force review, and program status reviews for lockdowns and modified programs. By evaluating our institutions relative to specific areas, we identify problems early, identify best practices to share with other institutions,

and make necessary adjustments through institution management. When we see significant differences between institution practices, we review governing policy to ensure it is clear, request clarification as warranted, and incorporate the review into any recommendations for application of the policy by the institutions.

My next priority is the coordination of resources from the Office of Correctional Education (OCE) and the Division of Community Partnerships (DCP) to maximize program availability within the institutions. Thus far, I have committed a great deal of effort toward this goal. As previously related, I personally attend the PAIP meetings at the GP III/IV institutions. I also attend the COMPSTAT review meetings for all of the institutions within my mission and address the education component with the executive staff and principal. During COMPSTAT reviews, I have shared the importance I place on these programs and the need to fill program vacancies quickly, operate programs regularly, and resume suspended programs safely and rapidly.

I have met with Larry Small, Warden (A), Calipatria State Prison, and his executive staff, to develop a proposal for rebuilding an education program that has slowly diminished over the past fifteen years. I participated in their initial meeting, informed the OCE of their efforts, and will be soliciting OCE's assistance, guidance and resources to reactivate these programs. Mission staff are working with the Classification Services Unit (CSU) and Population Management to ensure that Calipatria has an appropriate population meeting custody requirements necessary to access affected program areas. It is my intention to continue this effort at all institutions within the mission.

As previously mentioned, I am concerned with program effectiveness. Lockdowns and modified programs create major impact to program effectiveness. Program effectiveness is reduced when inmates are prevented from participating in programs due to lengthy lockdowns or modified programs. Lockdowns and modified programs are tracked through the Program Status Report (PSR) process and inmates' access to these programs are monitored through this process to ensure they are given priority as facilities are returned to normal programming.

Visiting is another high priority area for me because it provides a significant opportunity for inmates to develop and maintain family ties. The primary concerns related to visiting are; inconsistent enforcement of policies, discourteous treatment of visitors by staff, delays in processing visitors and inmates into visiting, and exposure to inclement weather while awaiting processing. Consistent enforcement of the visiting policy by staff at the same institution, and between different institutions, would alleviate many of the problems encountered. The inconsistent enforcement of policy leads to many complaints by visitors, inmates, and staff, often resulting in complaints of staff misconduct based on unprofessional conduct. I monitor this area through visitor and inmate complaints, inmate appeals and review of the local Inmate Family Council (IFC) meeting minutes from the institutions. Additionally, I attend the statewide IFC meetings to become aware of issues at other prisons and share best practices with the wardens



in my mission. Visiting is another area where I frequently work with the ombudspersons who often visit the institutions and provide me with an objective assessment of the visiting operation. I relied on them extensively as a warden and continue that relationship in my current assignment as associate director. The ombudspersons assigned to the GP III/IV institutions keep me apprised of the complaints they receive, make unannounced visits on visiting days and provide me with their observations and interactions with staff, visitors and inmates. They also share these observations with the wardens, allowing them to address any issue that may have come to light through this process.

Lockdowns and modified programs are another area of priority to me because of their impact on everything that occurs in an institution. They disrupt inmate access to education programs, substance abuse programs, work assignments, self-help programs, visiting, and even non-emergency health care in serious incidents. I monitor each lockdown and/or modified program at least weekly. One GP III/IV Mission staff member is responsible for gathering all of the reports and other information related to each lockdown or modified program. The information is compiled and evaluated every Monday with regard to efforts by the institution(s) to resume normal programming. Any questions or concerns are immediately addressed with the warden to ensure the institution is progressing at an acceptable pace in returning to a normal program. Also, any concerns with specific program closures such as education, visiting, substance abuse programs, and California Prison Industries Authority (CALPIA) assignments are discussed with the warden and institution staff to ensure these programs are not unnecessarily delayed in reopening. Any modified program that exceeds 60 days results in a bi-weekly conference call to discuss issues preventing a return to normal program. These calls continue until the facility has returned to normal program. All efforts are made to ensure uninvolved groups are returned to a normal program as soon as possible while the issues between the involved groups are resolved.

My goal is to visit every institution in the mission at least once per quarter, and more often when fiscally prudent. I have been able to do this by attending the COMPSTAT reviews, PAIP meetings, and during visits related to institution-specific issues. I normally include a tour of the institution during these visits. During the past year, I have visited each of the GP III/IV Mission institutions at least three times. It is my hope to visit each institution often enough to be viewed as an integral part of their team, and not being viewed as a distraction because of infrequent visits.

**3. *Please describe the management training you received for your current assignment. What sort of training do wardens receive, and is it on an ongoing basis?***

I have received a significant amount of training over the years beginning with receiving my Master's Degree and credential in Educational Administration from California State



University, Los Angeles in 1987. Additionally, I have participated in several programs provided by the CDCR. Some of the programs include:

CDCR:

- Penal Code 832 Training
- Basic Supervision
- Equal Employment Opportunities Investigator Training
- Internal Affairs Investigator Training
- Skelly Officer Training
- Seven Habits of Highly Effective People
- Theory of Constraints Training
- Conflict Resolution Training
- Cultural Diversity Training

National Institute of Corrections (NIC):

- Warden Peer Interaction Training
- Newly Appointed Warden Training
- Emergency Preparedness: Incident Command System for Corrections

California State University:

- Leadership Development Program, CSU, Sacramento
- The Leadership Institute, CSU, Chico

Office of Homeland Security:

- National Incident Management System

I continue to seek and participate in programs to enhance my skills and abilities that will benefit the CDCR. I readily share the information gained in training with my colleagues and mission staff to further enhance their abilities and prepare them as departmental leaders in their and CDCR's future.

In addition to the training I have received over the years, I have gained a wealth of knowledge and experience through my various assignments and increasing administrative responsibilities. These included Supervisor of Vocational Instruction, Supervisor of Correctional Education Programs, Associate Warden, Chief Deputy Warden, culminating with my appointment to the position of Warden at the California Correctional Institution in 2003. I continue to learn and grow as a leader in my current assignment as the Associate Director - GP Levels III and IV Mission.

Wardens continue to be offered opportunities to participate in some of the programs mentioned above. I recently submitted the names for two wardens in my mission to be

considered for participation in a training program for newly appointed wardens offered by the NIC in April 2009. These are great opportunities for the wardens and all costs associated with the training are borne by the NIC. All wardens are required to complete the National Incident Management System training sponsored by the Department of Homeland Security. In addition to these opportunities, wardens are provided a significant amount of training at the regularly scheduled warden's meetings, participation on special assignments and Warden's Advisory Groups designed to take issues facing the Department and to develop resolutions that can be applied department-wide. As mentioned earlier, I use the COMPSTAT and PAIP processes as training opportunities for wardens and executive staff at the institutions and for the GP III/IV team in headquarters.

### **Budget Crisis**

**4. *Please describe how the prisons under your management have been affected by the state's budget crisis. What specific program and staffing reductions have your prisons experienced?***

All of the institutions in the GP III/IV Mission have been impacted by the State's budget crisis. They continue to face many challenges, including base budget reductions, compliance with legal mandates, costly litigation issues, continuing operational changes, and major structural issues. Each year the institutions are faced with reduced resources and expected to maintain mission critical activities, exercise fiscal restraint and continue to remain in compliance with Health & Safety regulations, Americans with Disabilities Act compliance issues, construction projects and programs ordered by the Medical Receiver in *Plata v. Schwarzenegger* and the Special Master in *Coleman v. Schwarzenegger*. Two programs that were directly impacted by the budget crisis earlier in the fiscal year were the substance abuse programs and self-help programs that were suspended on July 31, 2008. The substance abuse programs re-opened at SATF on August 26, 2008, Pleasant Valley State Prison on September 2, 2008 and at California Men's Colony on September 3, 2008. The self-help programs were re-activated in November 2008, and are currently fully operational.

As a result of the budget crisis, institutions have been directed to suspend or cancel contracts unless the services were related to a fire, life or safety issue. Institutions are restricted from hiring unless the position provides direct care or custody of inmates and, virtually all non-critical business related travel has been suspended. A freeze exemption process has been implemented by CDCR to ensure compliance with the restrictions for hiring, purchases and travel. The institutions' annual operating budgets are also impacted by having to defer services/functions in the following areas: job related training for staff, preventative maintenance of the physical plant, replacement of major equipment, and procurement of materials and supplies necessary to maintain the facilities. In addition, institution budgets have been negatively impacted by increased



costs for postage, utilities, food and specialized diets. The cost of overtime for medical guarding and transportation, and a general increase in the cost of other goods and services are some of the obstacles faced by wardens managing their budget during these difficult times.

The program reductions over the years have included the closure of vocational education programs both from a budgetary perspective and an operational perspective. We are currently working collaboratively with OCE as mentioned earlier through the PAIP process as well as our own assessment of each institution's operations to increase vocational program opportunities to the inmate population. A good example of this process is the one I mentioned earlier currently underway at Calipatria State Prison. It is our hope that once completed; the proposal will be developed and provided to OCE for approval and identification of the position authority and funding for necessary equipment and training supplies/materials to re-activate the programs.

Wardens are being asked to do more with less to overcome the diminishing resources. One such way that enhances vocational program effectiveness at no cost is increased use of community service offerings by the programs. These are beneficial in many ways and several institutions currently take advantage of this opportunity. Vocational programs can produce products related to their program to tax supported agencies for just the cost of materials they would supply. This offers a significant cost savings to the agency and ultimately taxpayers. Because the supplies and materials to complete the project are supplied by the end user, the vocational programs can provide a training project to their students at no cost. More importantly, the students in the programs benefit because they are working on a project that will be utilized in the community as opposed to normal training projects that are discarded once they are completed. Working on "real life" and meaningful projects gives credibility to the program from the inmate's eyes as well as those of everyone involved; from the agency receiving the product, those evaluating the programs to prospective employers of the inmates completing the program. The Mill and Cabinet program at MCSP is an excellent example of this process.

**5. *Administrative segregation is the most costly form of incarceration at CDCR. The Inspector General recently released a report stating that too many inmates stay in "ad seg" too long. How do you respond to this criticism? Are you taking any of the Inspector General's recommendations? Which ones? What role do you and your wardens play in monitoring the time inmates spend in this costly housing?***

Administrative Segregation is a very costly housing option within the CDCR. The high costs associated with this type of housing are related to the increased staffing required for feeding, escorts, medication administration, property collection and distribution, and facilitation of other programs and activities within the units. It is my expectation that the wardens monitor their Administrative Segregation Unit (ASU) population regularly to



ensure that the issues resulting in their ASU placement are addressed quickly. They are also expected to ensure that once the issues are resolved, the inmate is then scheduled for classification and released back to the general population or referred to the Classification Services Representative (CSR) for transfer to an appropriate institution. From that point, it is the responsibility of the Associate Director and mission staff to assist the warden and institution in conjunction with the Population Management and Transportation Units to facilitate the transfer as soon as possible.

The CDCR is well aware of the delays in releasing inmates from ASU as described in the report produced by the Office of the Inspector General (OIG). Many of the delays are inherent to the classification process, and the need to ensure that inmates can be housed and program appropriately and safely while the issues resulting in their ASU placement are addressed. Some delays are directly attributable to other agencies over which CDCR has no control. In spite of this limitation, CDCR regularly interacts with the District Attorney's Offices and courts to request rapid resolution of pending case reviews and accepted cases.

Wardens are responsible for monitoring the length of stay of inmates in ASU. This is managed via the classification process, COMPSTAT reviews, weekly ASU overflow reports from the PSU, and Population Management Issue Papers developed by the Population Management Unit. As the chairs of Institution Classification Committees, wardens and chief deputy wardens are responsible for ensuring that investigations related to ASU placement are assigned to specific individuals and work areas, and given specific due dates.

As the Associate Director, I review the same reports and interact with the wardens to ensure that these reviews are completed expeditiously, and appropriate action taken to resolve outstanding issues. It is my expectation that the inmate is then seen at the next regularly scheduled classification committee hearing for return back to the general population or referred to the CSR for transfer to an appropriate institution that will address the issues resulting in his ASU placement.

Based upon the findings of the OIG, DAI initiated a survey that is being administered through the GP III/IV Mission, designed to assess issues resulting in delayed release from ASU. The survey asked that each institution identify the number of inmates pending a variety of processes which must occur prior to the referral for transfer, endorsement and ultimate transfer or release from ASU. The processes included in the survey were cases pending: Investigation, completion of a Rules Violation Report, District Attorney Referral, court proceedings, CSR action, completion of a Security Housing Unit (SHU) term and endorsed awaiting transfer to another institution. Each of these categories was further separated to provide data specific to inmates housed in ASU for: 91 to 180 days, 181 to 270 days, 271 to 360 days, and 361 or more days.

The information gathered in this survey will be used to identify the most common causes of delays to the ASU release process, and to establish benchmarks in the ASU length of stay that will prompt discussions between the Associate Director, warden and administrative staff of identified prisons. It is anticipated that this additional level of oversight will decrease the duration and number of unnecessarily extended ASU stays for inmates.

As committed to in CDCR Secretary Matthew L. Cate's response to the OIG report, CDCR is developing a standardized ASU tracking system, implementing appropriate management review tools as the one mentioned above, and providing appropriate training to staff involved in the ASU classification process. In developing a standardized ASU tracking system, the missions have obtained numerous tracking systems currently in use in the institutions, to help identify best practices. The aforementioned survey will help with the implementation of appropriate management review tools and processes. Training will be provided to appropriate staff in regard to changes in the tracking, review, investigation, and follow-up actions required for improving the ASU release process.

### **Prison Operations and Consistency**

*Until the department's 2005 reorganization, prisons were overseen by four regional administrators. With the reorganization, the structure changed to five mission-based associate directors who report to the department secretary. Under this system, similar institutions are organized together and overseen by an associate director. Your position was filled by a number of acting administrators before your 2008 appointment.*

- 6. *The stated goal of the mission-based system is to achieve consistency over prison policies and practices in areas such as custody arrangements, visiting, and programs. After more than three years, what are your examples of success and what issues are needing more attention as you seek consistency?***

The CDCR has worked diligently to meet the goal of achieving consistency in prison policies and practices. Staff employed by the missions have become familiar with departmental policies and related institution practices, and are better prepared to evaluate practices to ensure that they are applied equitably within comparable institutions. The reorganization has led to the development and centralized oversight of the Property Regulations for inmates housed in institutions of similar levels. In addition, each mission has been tasked with oversight of various department-wide issues. The responsible mission coordinates the efforts of the five missions to develop, review, revise, and implement departmental policies related to these issues.



One example of this is the Female Offender's Programs and Services (FOPS) Mission oversight of all inmate visiting policies and procedures. In November 2008, FOPS staff coordinated a training session in Sacramento for custody supervisors and Family Services Coordinators (FSC). The three-day training session allowed staff from all institutions to be provided with departmental expectations, ask questions related to visiting and receive training by departmental experts in visiting policies and procedures. CDCR has also initiated a work group comprised of departmental experts in visiting, security and regulations. This work group meets regularly to evaluate departmental policy and institutional procedures/practices and assess the need for policy and regulation changes, training, and revision of the Visitor's Handbook.

Within the GP III/IV Mission institutions, I have worked toward consistency in the application of departmental policy through coordination of and communication with the wardens and institutional staff. I have worked diligently to fill all vacancies within the GP III/IV Mission, and to train the staff regarding my expectations and the responsibilities of each of their positions. As mentioned in my goals statement earlier, the GP III/IV Mission staff are being trained to become more engaged with their assigned institutions, be more aware of institutional issues, and to work collaboratively with staff in other missions on common issues.

The PSU recently resumed an effort to standardize the naming of yards and positions within the institutions. This work was begun in 2004, prior to the reorganization effort. However, with the dissolution of the former PSU and massive turn over of staff in headquarters, the assignment was not meted out to another area for completion. With the reestablishment of PSU in 2008, this important function has been resumed, which will greatly aid the CDCR in achieving consistency in staffing within like prisons and for like programs.

The reorganization has had both positive and negative impacts on rehabilitative programs within the institutions. The primary benefit to programs has been the advocacy of these important rehabilitative elements within the Department. In the prior organizational structure, while being recognized as useful tools to occupy inmates and reduce violence, these programs were often secondary considerations when institution operations were discussed. Since the reorganization, inmate education, substance abuse and self-help programs are a primary concern when program is disrupted or modified significantly. The DAI staff work closely with DARS to: track program attendance; reduce the frequency of program closures; to identify the causes of program closures; and to work collaboratively to resume education programs and self-help programs like Alcoholics Anonymous, Narcotics Anonymous, parenting classes and Substance Abuse Programs as quickly and safely as possible.

I think the area I am focusing on that continues to be in need of attention is the improvement in the connection between the DAI to the other divisions and departments that operate programs in our institutions. It is my belief that we in the mission need to



be the conduit between the institution and those other areas. By strengthening that connection, those programs will continue to become more effective and the administration at the institution can align their operations with the needs of the inmates utilizing these programs.

**7. *As you scrutinize institutions, what do you look for to determine whether a prison is operating well? What are the red flags you look for? Is there a mechanism in place to share this information/best practices among the prisons you oversee?***

As the Associate Director of the GP Levels III & IV Mission, I review and interpret a number of reports and documents to monitor each institution's operations. I use the COMPSTAT reporting process, Peer Reviews, Inspector General's audits and reports, and a variety of periodic reports generated by the institutions and various headquarters offices. The periodic reports include the Administrative Segregation Weekly Population Analysis, CALPIA Lost Hours Report, Monthly DNA Data Collection Form, DPW (Disability Placement–Wheelchair) Wait List, Hunger Strike Log, Population Management Issue Papers, Monthly 3<sup>rd</sup> Level Appeals Reports, and Visiting Statistical Report.

During COMPSTAT reviews and the review of the periodic reports, data is analyzed to identify significant increases or decreases in reported information as compared to previous reports. These variations, or "red flags," are compared with information about institutional operations that may provide insight to the source of the change. If the variations cannot be logically linked to known factors such as modified programs, policy changes, or vacancies, I work with the wardens to identify potential sources of the variations. When the variations are attributed to factors under departmental or institutional control, I work with the wardens to develop and implement an appropriate plan of corrective action, or in the case of positive variations, to share the information or practice with the other institutions in GP III/IV Mission. These issues are also shared with the other missions using the weekly associate directors meeting. These corrective action plans are provided to my office and are tracked through completion.

In addition to the reports that I review, careful attention is paid to inmate appeals and correspondence from inmates and their families and friends for common issues either at a single institution or several institutions within the mission. I consider these common issues "red flags" of institution operations, inconsistent application of operational policy or lack of clarity of those policies. These issues are evaluated and referred to the institution for resolution. In the case of common issue involving several institutions, the evaluation is made to determine if the issue is departmental in scope requiring a resolution involving the other missions or if we need to provide clarity and guidance to those institutions in our mission. These issues are then shared with the other institutions if necessary to ensure continuity across the mission.

I have found that some of the most compelling insight to prison operations is discovered while touring the prisons in the GP III/IV Mission. During tours I have the opportunity to talk with staff and inmates, observe actual prison operations, assess the condition of the physical plant, and talk to representatives from the various labor organizations.

The morale, attitude and pride of institution staff and inmates are an immediate indicator or "red flag" of how well a prison is operating. On the contrary, when staff and inmates are dissatisfied, negative or obviously complacent about substandard physical plant conditions, it is a very strong indicator that the institution needs strong leadership and direction. Observing prison operations provides the opportunity to evaluate prison practices for safety, security and efficiency and also to ensure they are in compliance with departmental policy. It also allows me to better understand the challenges faced by the institutions on a daily basis, and as new programs, staffing or construction are considered by headquarters. The condition of the physical plant gives insight into the daily involvement of institution leadership and helps identify serious funding needs for repairs and replacement of equipment. During discussions with labor representatives I am presented with the concerns of staff and labor representatives as well as recommendations for improving operations within the institution and the Department.

As these issues are identified and resolved, they are communicated between the staff and institutions within the mission and across the missions by the interaction of staff within my mission and those from the other missions when they involve all institutions within DAI. I use conference calls with all wardens in the mission and include mission staff in headquarters to address common issues and to ensure the information is communicated to all for uniformity. Additionally, issues are shared at our weekly Associate Directors meeting and then shared at meetings within our mission. We use these opportunities and venues to share best practices and ensure more consistent institution operations statewide.

**8. *What role do you play in ensuring that prisons under your supervision are fully engaged in their rehabilitation missions? How do you communicate with program staff that provide education and treatment? Are improvements needed? If so, please describe.***

As the Associate Director, I facilitate the connection between the GP III/IV institutions and the DAI, the Division of Education, Vocations and Offender Programs (DEVOP), DARS and DCP to improve and expand education, drug treatment and leisure time activity programs. The goal of the GP III/IV institutions is to safely provide rehabilitative programs and recreational activities as frequently as possible. To this end I evaluate the success of current programs, assess proposed programs to ensure implementation in a locale with the greatest opportunity for success, and assist the responsible Divisions in overcoming institutional barriers to program operations.



I communicate with program staff that oversee education and treatment on a regular basis. I make myself and my staff available to program staff, as needed, to assist with coordinating existing or proposed programs, and interact with institution and program staff to develop strategies to ensure maximum program operation. I monitor education programs via the Monthly Education Reports, audits of education programs, and through the COMPSTAT process where I can discuss directly with executive staff of the institution, issues of concern related to these programs or derive best practices that can be shared with the other missions and institutions.

In addition, I personally attend the PAIP meetings to ensure that performance expectations relative to inmate rehabilitative programs are clearly defined and directly linked to budgeted resources. These meetings are intended to create a standardized process to expand rehabilitative programming, establish current and future performance expectations relative to rehabilitative programs, ensure fair performance targets are established, and monitor each institution's progress toward expanding rehabilitative programs and achieving outcomes. Thus far, I have personally attended the PAIP meetings at California Medical Facility (CMF) and MCSP to demonstrate to institution staff the importance that I place on the rehabilitative programs offered to the inmate population.

The PAIP meetings are a recent addition to the other program management and coordination efforts designed to evaluate new and proposed programs, and ensure appropriate attendance and assessment of the programs. It is too early in the PAIP process to fairly assess the extent to which improvements or changes to the process are warranted. Thus far, the PAIP meetings have been a valuable tool for program and institutions staff to achieve the stated goals.

All programs can be improved regardless of how effective we feel they may be. It is obvious when looking at recidivism rates that the programs operating within the institutions are not as effective as we would like them to be. It is my belief that all of these programs should be infused into the very fabric of the daily institutional operations. Replicating the community the inmate will be returning to while incarcerated is high on my priority list of things I would like to accomplish during my tenure. We are currently looking at ways of making participation in academic and vocational programs a prerequisite to being placed into work assignments. By working with CALPIA, for instance, vocational programs can be utilized to provide them with a trained workforce at least with entry level skills. This also instills more credibility to the programs from the inmate's perspective in that participation in these programs provides the opportunity to inmates at quality work assignments. Touring the program areas of each institution is the best way to ensure that the programs are operating effectively. This way I can talk to the staff involved in operation of the various rehabilitative programs and inmates taking advantage of them to get their perspective of program effectiveness. As mentioned earlier, I am personally engaged in the process for expansion of the vocational programs at Calipatria State Prison and have made it a priority with their



executive team to develop a proposal after they complete their assessment of existing space and resources. Once completed, the mission will work with OCE to get the approval and additional resources necessary to activate the programs.

**9. *When there is a lockdown or modified program, meaning that activities of some inmates are limited, what role do you play in reviewing the situation and making recommendations about whether the lockdown should be lifted?***

The institutions are required by departmental policy to notify the Associate Director of serious incidents as soon as safe and practical to do so. In addition, within 24 hours, the institution is expected to complete and submit an Incident Package which includes a synopsis of the incident and information about all involved inmates, staff and visitors. The institution is responsible for notifying the Associate Director when an incident results in modification of inmate programs beyond 24 hours. This reporting process is documented on a PSR. Each Mission has one or more staff assigned to review PSRs for timeliness, accuracy, and completeness. The PSRs are updated whenever significant changes to the modified program are implemented, but at least weekly.

It is my expectation that once a program has been placed on lockdown or modified programs status, the process for return to a normal program begins immediately. I discuss this expectation regularly with the wardens as has the directorate on many occasions. Outside of the departmental reporting requirements as described above, the institution should immediately begin conducting a threat assessment to evaluate the circumstances surrounding the incident and the issues that need to be addressed in order to begin an expeditious return to a normal program. Meetings should be convened involving all stakeholders, including supervisors of the various rehabilitative programs, to ensure minimum impact or allow the Alternative Education Delivery Model (AEDM) to begin in the interim. The AEDM is not designed to be a long term method for providing access to educational opportunities and a return to the classroom setting must be the priority. Also the education programs, substance abuse programs and critical work assignments must be opened for at least the non-involved inmate population at the earliest possible time once security concerns have been addressed. These issues as well as access to medical, mental health and dental care are closely monitored to ensure the minimal amount of adverse impact is achieved.

As the Associate Director, I remain informed about each of these incidents through review of the PSRs, discussion with the mission staff responsible for tracking and regular contact with the warden at the institution. If the duration of the modified program reaches 60 days, the Mission PSR coordinator(s) schedule conference calls with the affected institution(s). These calls occur every two weeks until the institution is able to return the facility to normal programming. During the program status conference calls, the warden and institution management staff provide updates to us on their efforts to: Identify the cause of the incident; assess the ongoing ramifications of the incident; and

efforts at returning the facility to a normal program. These calls provide me the opportunity to evaluate the institutions' handling of incidents and their aftermath, as well as provide feedback and insight to the institution staff on their plans to resume normal program. Lengthy or difficult modified programs are discussed providing ideas and options for strategies or best practices that have had successful results in similar situations in the past.

As necessary, I offer guidance on investigations into staff and inmate misconduct, facilitate the transfer of involved offenders, if necessary, and function as liaison with the Office of Correctional Safety (OCS) for conducting independent threat assessments. I am responsible for being informed on the institution's efforts to return to normal programming and providing expectations to institutional staff when it is clear that this action is warranted.

**10. *How do you keep yourself apprised of what is happening inside the prisons? How often do you personally visit the prisons under your management?***

There are a variety of ways in which I keep myself apprised of what is happening inside the GP III/IV Mission prisons. Touring the institutions gives me the best feedback because I can directly observe and evaluate institutional operations. Additionally, through my staff, I constantly monitor correspondence from staff, inmates and inmate friends and family. As mentioned earlier, I monitor inmate appeals, employee grievances, Monthly Budget Plans, Peer Reviews and a variety of periodic reports. The periodic reports include the Administrative Segregation Weekly Population Analysis, CALPIA Lost Hours Report, Monthly DNA Data Collection Form, DPW (Disability Placement–Wheelchair) Wait List, Hunger Strike Log, Population management Issue Papers, Monthly Third Level Appeals Reports, and Visiting Statistical Report. Reviewing these reports helps me to identify areas of institution operations that are excelling and others that may require additional attention or resources.

Departmental policy also requires that wardens and their designees report major incidents or incidents which may be of significant interest to the Department. This information comes in the form of electronic mail, telephone calls and Daily Briefing Reports, and typically includes a brief synopsis of the incident and identifies involved staff, inmates and visitors. Following particularly significant or sensitive incidents, the institution staff will provide regular updates to the initial information until the incident or unusual occurrence is largely completed.

Another important way to stay apprised of what is happening inside the institutions within my mission is through communication with the Office of the Ombudsman. They are a valuable resource and a virtual clearinghouse of issues, information, concerns and/or complaints regarding the institutions within my mission. They also make periodic visits to the institutions and I can use their visits in conjunction with mine



to evaluate prison operations. I have been working with them on issues related to visiting that I have encountered and complaints that they share with me to evaluate and provide resolution. I consider them an extension of my office for monitoring institutional operations. As mentioned earlier, I utilized their services as a warden and will continue to do so in my current position.

As mentioned earlier, my goal is to visit each institution on a quarterly basis and more frequently if possible. Attending the COMPSTAT and PAIP meetings gives me the opportunity for those additional visits. Thus far I have visited every institution at least three times and others more frequently as issues have arisen.

### **Visitation**

*A key to rehabilitation is ensuring that inmates maintain contact with their families through prison visits. At Pleasant Valley State Prison, a facility under your supervision, inmates complain about uneven treatment of visitors by staff.*

#### **11. Please describe training of visiting officers to ensure consistency among institutions and within different visiting areas within the same prison.**

Consistency and standardization are two goals of the Department and present difficult and interesting challenges. The Department Operational Manual provides policy for administering the inmate visiting programs. The California Code of Regulations, Title 15, provides regulations governing the Department's visiting programs, and additional clarity to the facilitation of visiting programs. It is my expectation that all visiting programs conform to these policies and that each visiting room within the same institution follow those same guidelines. Visiting supervisors should be addressing those issues as they are brought forward or discovered during tours to achieve the desired consistency and improving the visiting experience for all involved.

It is a departmental expectation that CDCR custody supervisors conduct meetings on a daily basis with their assigned staff. These meetings allow the supervisors an opportunity to provide ongoing on-the-job training. During these meetings Visiting Lieutenants and Sergeants train visiting staff regarding revised policies and issues or concerns related to the visiting program. I stress the importance of visiting staff having ready access to their supervisors to address problems quickly and at the lowest level possible. The Lieutenants and Sergeants continue to emphasize the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation. During visiting operations, there is a Lieutenant and/or Sergeant present in the visitor processing centers to strive for consistency in processing visitors into the institutions.



I have clearly stated my expectations to the GP III/IV wardens that staff adhere to approved policies and procedures related to the visiting program. When issues arise that are not clearly governed by the regulations or policies, the visiting supervisors are expected to address the situation in a professional and courteous manner while ensuring the safety of staff inmates and visitors and the security of the institution.

In November 2008, the DAI sponsored a week-long training seminar for visiting supervisors and FSC from the institutions to address the exact issues expressed by inmates at Pleasant Valley State Prison and other institutions throughout the state. The training provided current visiting supervisors with insight into interpretation of visiting regulations, general training about facilitating a visiting program, clearance of visitors, application of sanctions against visitors and inmates, and guidelines for responses to visiting complaints. The training provided visiting staff with an opportunity to ask questions of headquarters staff familiar with visiting regulations and programs. In addition, the Director was able to share her expectations and the training allowed headquarters staff to share best practices with the visiting staff from the institutions.

The IFCs are typically very involved in addressing concerns related to the visiting program. Under my direction, the GP III/IV wardens continue to meet with the IFCs on a monthly basis. These meetings provide the IFCs with a venue to address issues and complaints from inmate families. The issues are presented by the IFC, discussed with institution representatives, and when appropriate, corrected by the institutions. Corrective actions developed as a result of interaction with the IFC are reported on at subsequent IFC meetings. As the Associate Director, I review the IFC meeting minutes from each GP III/IV institution in order to monitor issues that are brought to the attention of the warden and responsiveness of the institution to bring resolution to those issues. It is also my intent to visit each institution to attend an IFC meeting to become familiar with each of their formats and evaluate their effectiveness. This way I can share my expectations of the local IFC as well as those same expectations of the institution. I will also be touring the visiting rooms during my visits to observe operations as well as talking to staff, inmates and visitors relative to their views of and experiences in the program.

I also attend the statewide IFC meetings in headquarters. At these meetings I can become familiar of issues impacting other institutions and share those with the institutions in my mission as well as become aware of issues at institutions within my mission in need of a remedy. I consider this a form of sharing best practices and a way of bringing consistency to our visiting programs statewide.

This is an area where I utilize the resources of the Office of the Ombudsman as an extension of my office. They have the ability to visit and tour institutions to observe the operations of the visiting program. They also receive the complaints associated with the program allowing us in the mission or the warden at the institution to address those complaints. If I have issues or concerns, I will regularly meet with the ombudsperson

assigned to the institution to look into those concerns on their next visit. They also will conduct unannounced visits to observe the visiting operation and share those operations with the warden and me. When complaints or concerns have been resolved, I rely on them to return to evaluate the effectiveness of the resolution rather than waiting for another complaint.

**12. *Please describe any efforts you are making to reduce the wait times and improve visiting conditions.***

Visiting supervisors ensure they utilize visiting staff resources in the most effective manner in order to reduce the wait times for visitors. All institutions have received direction to continue processing visitors during count times to reduce delays. Depending upon the physical plant and institutional visiting staffing complement, when a visitor arrives in the visitor processing center staff identify the inmate that is receiving the visit. Visiting staff contact the inmate's assigned housing unit in order to notify the inmate of the visit, to prepare for the visit.

Facility supervisors have been directed to provide on-the-job-training to facility/housing staff and reiterate the need to expedite the processing of inmates to their visits. Additionally, program/facility staff encourage communication between inmates and their visitors to schedule the visits, which prompt the inmates to be prepared.

Visiting conditions are an extremely high priority. Staff ensure the visiting rooms and surrounding areas are clean and orderly. In addition, all staff assigned to these areas are trained to conduct themselves professionally and courteously during their interactions with visitors and inmates. Visiting supervisors are required to routinely tour the visiting areas under their supervision, ensuring policy and procedures are being consistently followed and enforced, as well as speaking with all the staff, visitors and inmates.

The DAI has assembled a work group to address changes needed in the Department's visiting regulations. The focus of the work group is to revise regulations and policies to eliminate areas within the regulations that allow for interpretation, and ultimately lead to misapplication of the regulations or unequal enforcement from institution to institution. The current areas of concern include revision of the CDCR Visitor Handbook, modification of the minor visiting regulations, and improvement of the visitor dress code. Additionally, a Warden's Advisory Group has been formed to look into the issues around improving processing times. One such idea currently being utilized at an institution is scheduling appointments in order to reduce the time involved. That proposal is currently being evaluated for possible implementation statewide. These types of best practices are shared through the WAG and other work groups in our effort at continual improvement to the visiting programs at all institutions.



In addition, during the past year, CDCR has moved forward with requests from many institutions to construct covered visitor waiting areas for use by visitors awaiting processing.

Finally, I work closely with the GP III/IV institutions and my staff to evaluate visiting complaints and ensure that assessed terminations, suspensions and exclusions are appropriate and completed per departmental regulations. I have on several occasions requested copies of video evidence to evaluate complaints by visitors requesting review of the circumstances leading to their disciplinary action.

Lastly, as mentioned in my response to the previous question, in addition to my visits to observe the visiting operation, I rely heavily on the resources and efforts of the Office of the Ombudsman to observe and share their impressions of the visiting program to include the efficiency of visitor processing with the warden and myself.

I am a firm believer in visiting as a means to maintain strong family ties and prepare inmates for re-entry into their communities. To this end, I encourage the GP III/IV wardens to resolve visiting issues at the lowest possible level and provide an environment that encourages visiting.

### **Staffing**

*The prison population remains around 172,000. The average annual cost to incarcerate an inmate is about \$46,000. Your prisons had about 95 correctional staff vacancies as of November 2008, but the Legislative Analyst in February 2008 estimated CDCR annually receives 130,000 applications for correctional officer positions.*

**13. *What are you doing to reduce the number of staff vacancies and recruit and train new officers? With so many applicants, is there a way for you to further reduce the officer vacancy rate?***

As a Department, CDCR strives to keep staff vacancies at a minimum. However, through retirements, promotions, transfers, and a variety of other influences, CDCR is required to continually recruit and hire new Correctional Officers to keep the vacancy rate at a manageable level. In order to keep pace with the statewide vacancies, a specialized unit recruits, tests, and interviews applicants for the position of Correctional Officer. When successful applicants complete the testing process, they are scheduled to attend the 16-week CDCR training academy.

During the 16-week academy, cadets are trained in all aspects of the Correctional Officer position. The training is very comprehensive and is designed to provide the cadet with the skills and abilities necessary to perform the duties of a Correctional Officer in a correctional setting. Upon graduation from the academy, Correctional

Officers are assigned to one of the State's correctional facilities to protect the public by safely housing inmates in a state prison facility. In this role, Correctional Officers are responsible for the security of the institution and the safety of staff, visitors and inmates.

In 2003 and 2004, in an effort to reduce costs, the CDCR Academy was closed for approximately 12 months. Ultimately, the vacancy rate at several institutions resulted in the reactivation of the academy in late 2004. Since the reactivation of the academy, the Department has operated overlapping academy classes and satellite academies to produce a larger number of Correctional Officers to fill the statewide vacancies. The overlapping and satellite academies have significantly reduced the number of officer vacancies throughout the state.

In addition, the Department repurposed the deactivated Northern California Women's Facility to a CDCR Academy Annex. This enabled the Department to produce a greater number of sworn custody staff more quickly, and ensured that the mandated training of newly promoted Correctional Sergeants, Lieutenants and Parole staff would continue uninterrupted.

Although the Department receives over 130,000 applications per year, only a small percentage of those applicants pass the entrance exams and background check to successfully attend the academy.

The Correctional Officer vacancy rate is very low at this time, although an increased demand is expected based upon the Inmate Access to Care units being established by the Medical Receiver in *Plata v. Schwarzenegger*. As these needs increase, academies will also increase to keep pace with the expected vacancies. Additionally, as population reduction strategies continue, the deactivation of overcrowding beds will result in closures of dayrooms and gymnasiums. Staff associated with those deactivations will be utilized to fill the remaining vacant posts.

**14. What role do you play in developing a "bench" so that senior managers are available and ready to step into associate warden and warden roles? Senior managers always seem to be in short supply at CDCR. What could be done to improve this situation?**

As an Associate Director, I am responsible for preparing staff within the GP III/IV Mission and institutions to assume senior manager roles within the CDCR. I approach this task with a three-pronged strategy including training, experience and leadership modeling.

Throughout my career I have been afforded the opportunity to attend a variety of training that has prepared me for leadership positions. This training has been developed and provided by the Department, presented and coordinated with the California University systems, and offered to departmental staff sponsored by the NIC. As a



benefactor of the excellent training offered by the Department, I work actively to ensure my staff are afforded as many appropriate training opportunities as possible. In addition, I ensure that my staff are cross-trained with other positions to provide continuity of operation and improved morale. To this end, I recently recommended two of the GP III/IV Mission wardens for new warden training sponsored by NIC. In addition, I expect the GP III/IV wardens to comply with departmental requirements regarding leadership training for supervisors and managers within the institutions. Attending work-related training helps to prepare potential candidates for success as leaders within the Department.

In addition to formal and informal training, I ensure that my staff in headquarters and in the institutions are afforded the opportunity to learn from experience. These learning opportunities are provided through out-of-class assignments, Training and Development (T&D) or acting position assignments, and through increased responsibility to assist with assignments typically handled at higher levels. Serving in out-of class assignments allows employees to work in classifications other than their appointed classification. This familiarizes the employee with additional skills and responsibilities, making the employee a better candidate for leadership roles. T&D and acting assignments allow staff to serve temporarily in a classification above their current appointed position, but outside of the same promotional chain. This exposure makes them better employees in the short-term by giving them a better understanding of institutional operations outside of their normal career path. In addition, it gives the employee a broader understanding of the unit's overall operation and more detailed understanding of each employee's responsibilities within the institution. Finally, I challenge staff to assist with and complete assignments that are typically handled at higher levels. These opportunities help prepare staff by giving them an understanding of the work completed by managers, and helps to instill a sense of ownership with the staff.

Most importantly, I help to prepare staff to become senior managers by modeling leadership in my everyday actions. To be an effective and successful leader, a person needs to confirm organization expectations regarding behavior by being a role model, be willing and able to make difficult decisions, and be prepared to accept the consequences of the decisions made. Every member of an organization is expected to act as a role model for peers and subordinates. This expectation is magnified for senior managers as they are departmental leaders and are scrutinized with increased intensity. I believe that my actions as a leader have demonstrated my understanding and support of departmental expectations regarding behavior for senior managers. In addition, I have empowered the wardens to make necessary decisions based upon departmental policy, understanding that I will support their decisions. The GP III/IV wardens also have a very clear understanding that they are responsible for the operation of their institutions and are accountable for all aspects of the facilities' operations. It is my goal that future leaders will observe the behavior of positive role models, and model their own behavior to become the departmental leaders of the future.

CDCR has taken an aggressive approach to filling senior manager positions and in preparing staff to assume these leadership roles. Departmental leaders have taken an active interest in filling senior manager vacancies as quickly as possible. In addition, CDCR's leadership has worked diligently to ensure that capable candidates are identified, mentored and prepared for eventual leadership roles. Capable candidates are identified via the progression planning process, departmental examinations, and personal observation of current departmental senior managers. These potential candidates are mentored through training, opportunities for expanded experience and personal mentoring by supervisors and managers.

In order to ensure that sufficient numbers of eligible candidates are available to fill senior manager vacancies, the Department needs to continue identifying and developing candidates through training, experience, and leadership modeling.

### **Contraband**

- 15. *Department officials have warned about the growing security threat from the smuggling of mobile telephones into prisons. It was reported that over 600 cell phones were found inside Solano State Prison alone. How are you addressing the problem of inmates' access to cell phones?***

The CDCR has expressed serious concerns over the rising number of cellular telephones discovered in the possession of inmates within the secure perimeters of our institutions. These very real concerns include the potential for coordination of an escape attempt with outside resources, planning for narcotics smuggling into the prisons, the potential for information breaches, and the influence gained by inmates over staff who participate in over-familiar activities such as smuggling contraband.

In order to address the problem of inmates' access to cellular telephones, I ensure that all allegations of cell phone introduction and possession are thoroughly investigated. In addition, I ensure that perimeter security operations are facilitated per departmental policy via conversations with the GP III/IV wardens and the Peer Review process. I have ensured that all GP III/IV institutions have developed and are using cellular telephone accountability processes for all state-issued cellular telephones allowed into the institutions by policy. I have authorized surprise, targeted cell searches in response to confidential information received regarding inmates in possession of cellular telephones.

The CDCR has established a WAG responsible for reviewing all issues related to cellular telephones in institutions. The WAG continues to evaluate many recommendations regarding the interdiction, confiscation, and obsolescence of cellular telephones in institutions. These potential resolutions include enhanced search processes for staff entering the institutions, increased sanctions authorized by proposed



legislation, increased sanctions via the inmate disciplinary processes, and purchase of technology to detect or prevent cellular telephone signals within an institution.

Many other custodial departments within California and in other states have implemented more stringent search policies including staff processing through metal detectors, x-ray of staff lunch boxes and belongings brought into the secure perimeter, and clothed-body searches of staff entering the institution's secure perimeter.

The CDCR continues to seek sponsors for legislation focused on increased sanctions for inmates found in possession of cellular telephones within the secure perimeter of the Department's institutions. Additionally, the WAG has tasked a work group with developing proposed regulations within the disciplinary section reflecting increased administrative sanctions for inmates found in possession of cellular telephones as another deterrent. The WAG has begun interacting with various vendors to evaluate available technology designed to detect cellular telephone signals, or disrupt cellular telephone signals within a controllable area.

All of these potential resolutions are being considered and pursued with an understanding that in the current fiscal situation there will be limited resources available for new equipment and technology.

**16. *Efforts have been discussed to strengthen the inspection of items being brought into prisons by visitors and employees. What are you doing to address the continuing problem of inmate access to illegal substances?***

The introduction of contraband into the secure perimeter of CDCR's institutions is of particular concern to all staff. The possession of contraband by inmates is detrimental to the core functions of the institutions and the Department from both a custodial and rehabilitative perspective.

Inmates in possession of cellular telephones, illegal drugs, weapons or other contraband present a threat to the security of the institution, the safety of staff and inmates, and potentially, the safety of the public. Inmate conversations on cellular telephones cannot be monitored by custodial staff as they are on calls made by inmates on the institutional telephone systems. This allows inmates the freedom to coordinate narcotics transactions, facilitate over-familiar relationships with staff, conspire to commit criminal acts inside and outside of the institutions, and potentially plot an escape involving outside assistance. Illegal drugs in the institutions are a primary source of gang violence, victimization of inmates, and manipulation of and over-familiarity with staff. Inmates in possession of weapons present a very obvious threat to the safety of staff, visitors and inmates. Possession of these same items perpetuates an inmate's criminality and prevents or delays the rehabilitative effort. These types of contraband in the institutions significantly impact the Department's ability to effectively provide rehabilitative programs.

As previously discussed, the CDCR is exploring a variety of options designed to reduce the introduction of contraband into the institutions by staff and visitors. The GP II/III Mission has successfully implemented "Operation Intercept" at California State Prison, Solano, and other institutions. This program is designed to intercept contraband being introduced into the institution by staff as they are processed through the staff entrance. The program is facilitated through a joint effort of institution investigative staff, the OCS, and the Office of Internal Affairs (OIA). In addition, staff are continuously reminded of the dangers and ramifications of introducing contraband into the institution for an inmate. Staff receive annual training on over-familiarity with inmates and their family members.

In order to reduce or prevent inmates' access to contraband, I ensure that all allegations of contraband introduction and possession are thoroughly investigated. In addition, I ensure that perimeter security operations are facilitated per departmental policy via conversations with the GP III/IV wardens and the Peer Review process. I have ensured that all GP III/IV institutions have developed and are using cellular telephone accountability processes. I have authorized surprise, targeted cell searches in response to confidential information received regarding inmates in possession of contraband. Institutions are also tasked with identifying potential institution security breaches that could provide access points for contraband introduction and to mitigate the threat in those areas.

### **Disease Management**

*The federal receiver overseeing prison health care said in his fourth bimonthly report that prison overcrowding has increased the number and seriousness of infectious and communicable diseases, jeopardizing prisoners, staff, and the public. However, inmates at Pleasant Valley complain that items necessary for basic public health, including soap and toilet paper, are not regularly made available to them. A similar contention was made about Pleasant Valley five years ago, though it was denied by administrators.*

- 17. How does your office coordinate with the receiver to prevent the spread of infectious and communicable diseases? While soap and toilet paper may be in plentiful supply in warehouses, how do you monitor that it is, in fact, being provided to all inmates on a regular basis?**

The DAI, represented by the Associate Directors, is working collaboratively with the Assistant Secretary, Office of Risk management (ORM), to build a proactive risk management program for CDCR to promote a safe and healthy environment for inmates, staff, visitors and surrounding communities.



ORM has developed a strong partnership with the Medical Receiver's Public Health Unit (PHU) since the environment is the same for both inmates and staff. Some of the coordinated efforts at protecting staff and inmates within the institutions are described below:

- Immediate response by ORM and PHU with prison officials to contain disease-related outbreaks in the prisons.
- Development of a standardized Injury, Illness, Prevention Program (IIPP) to address health and safety hazards in the workplace and prison environment.
- System-wide Exposure Control Plan (ECP) for MRSA. The ECP promotes vigilant environmental cleaning and sanitation of premises and contents that can be contaminated with MRSA, and the importance of the proper use of personal protective equipment and hand washing. This plan will be rolled out over the next 3-12 months and includes:
  - An alcohol-based hand sanitizer program recommended by the Center for Disease Control and by the Medical Receiver's PHU. A 90-day pilot recently began at five locations.
  - A Surveillance System being developed for both staff and inmates to determine skin and soft tissue infection prevalence.
  - On-the-job training component and Academy training program fully developed by Office of Training and Professional Development; In-Service Training program under development.
  - Flu vaccines offered to employees at no cost (PHU provides).
  - Elimination of \$5 co-pay for inmates (Medical Receiver authorized) to encourage self-reporting of skin infections.
- Yearly, mandated food facility inspections that ensure safe and healthful practices are being followed to avoid food-borne illnesses (such as Norovirus).
- Valley Fever (Cocci) Exposure Control Plan under development for endemic and hyperendemic areas of the Central Valley.
- Respiratory protection plan is being reassessed via a Department-wide risk assessment.

The DAI has worked very hard to coordinate with the Medical Receiver to prevent the spread of infectious and communicable diseases. I have been involved in developing a Contagious or Infectious Disease Incident Management Protocol to ensure appropriate stakeholders are involved in the decision making process, all appropriate notifications are made, preventive measures are taken when active cases of infectious or communicable disease are identified, and follow-up actions and evaluation are completed. I have provided the GP III/IV wardens with specific expectations related to their handling of these types of incidents and the coordination of efforts to prevent the spread of these diseases.

During a contagious or infectious disease incident, administrative and medical staff from the impacted institution(s) coordinate mitigation, containment and contact investigation efforts with staff from the Mission(s), Health Care Services in headquarters, the Transportation Unit, Classification Services Unit, ORM and other affected stakeholders. Regular communication with all of the stakeholders ensures that everybody is aware of the efforts to prevent the spread of the disease, and to treat patient-inmates. The status of the incident is documented in written form on medical program status reports at the initiation of the incident, and at critical points throughout the management of the incident.

Correctional Officers assigned to the housing units are typically responsible for distribution of housekeeping and sanitation supplies to the inmate population. Correctional Sergeants and Correctional Lieutenants are the first and second level supervisors responsible for ensuring that the Correctional Officers complete this and other duties as required.

I became aware of a concern expressed by inmates regarding the inadequate provision of soap and toilet paper during a recent tour. The warden addressed the immediate concern but also mandated training to staff assigned to posts responsible for the provision of these supplies regarding his expectations and compliance with the institution's policy. It is also his expectation that the supervisors of the facilities ensure newly assigned staff to these posts are aware of the warden's expectations in an effort to prevent this issue from arising again. During my tours, this will be a question I will ask of staff, inmates and the warden to ensure it doesn't become an issue again, especially in light of the purchasing restrictions resulting from the budget crisis. Wardens will continue to be reminded in our conversations of the need to ensure there are adequate supplies in the warehouse to prevent those types of shortages. Finally, I will monitor this issue through inmate and family correspondence, increases in inmate appeals related to conditions of confinement, touring and talking with inmates, and through the review of Men's Advisory Committee meeting minutes.

### Self-Help

*The reorganization of 2005 redesigned the chain of command, separating program and custody administration into distinct units. The reshuffling has changed how different parts of the department relate to one another. Organizationally, for instance, the Division of Community Partnerships is responsible for self-help programs such as A.A.*



*and N.A., but in practical terms, wardens have maintained operational control over self-help programs at their own institutions.*

**18. *What role do you play in the operation of self-help programs? How do you coordinate with the Division of Community Partnerships?***

As the Associate Director, I oversee all functions of operations for the institutions assigned to the GP III/IV Mission. I serve as a liaison between the GP III/IV institutions and the DCP to ensure that programs such as Alcoholics Anonymous and Narcotics Anonymous continue to be offered within the institutions. My role is to ensure that the institutions safely provide rehabilitative programs as frequently as possible. To ensure the success of these programs, I evaluate the attendance in current programs, assess the viability of proposed programs, and assist the DCP in overcoming institutional barriers to program facilitation.

I regularly communicate with program staff that oversee the implementation and facilitation of self-help programs. I ensure that my staff are available to program staff, as needed, to assist with coordinating existing or proposed programs. They also interact with institution and program staff to develop the strategies necessary for ensuring maximum program operation. I monitor self-help programs via the Men's Advisory Committee meeting minutes, correspondence, and COMPSTAT.

Additionally, as mentioned previously, institutional lockdowns and modified programs can have a significant adverse affect on the self-help programs. As part of the Program Status Review process, I place significant emphasis on the resumption of these programs at least for the non-involved elements of the population as soon as it is safe to do so. This issue is followed until the institution or facility returns to full normal program.

Although not necessarily under the "self-help" umbrella, I also pay close attention to inmates participating in the college program, taking advantage of the Corrections Learning Network and correspondence courses. These programs are typically connected to the education program however; inmates are voluntarily participating and trying to improve their chances at a successful parole which I would also consider self-help. We will continue to monitor these programs and encourage efforts directed at increasing inmate participation.

As discussed in a previous response, I attend the PAIP meetings to ensure that self-help programs are functioning appropriately. Thus far, I have attended PAIP meetings at CMF and MCSP. No other PAIP meetings have yet been scheduled for the institutions in the GP III/IV Mission.

**19. *As a result of the state not having a final budget for several months in 2008, contracts for self-help programs such as A.A. and N.A. were cancelled or suspended. But even after the budget was approved, the***

***programs were not immediately reinstituted. Did your office play a role in that? If so, please explain the lag in restarting self-help programs, such as A.A., at your institutions.***

As a result of the delayed State budget, many self-help programs, including Alcoholics Anonymous and Narcotics Anonymous, were suspended pursuant to the Governor's Executive Order. A freeze exemption process was initiated which included the payment of staff sponsors for the self-help programs at the institutions as part of CDCR's Cost-Control directives. On November 10, 2008, the self-help sponsor freeze exemption was approved and resumption of the programs authorized.

The staff within the Level III/IV Mission worked with the institutions to reinstate programs as quickly as possible given the scope of the closures. All self-help programs were fully activated within two weeks.

As previously stated, I value the self-help programs as a means of increasing safety in institutions, improving inmates' self-image, and preparing inmates for successful release and rehabilitation. These programs help to prepare inmates to assume the mantle of valued members of society, and important parts of their families upon release.

### **Substance Abuse**

*The department's internal statistical report for September 2008 listed about 2,500 substance abuse treatment slots at your institutions. Almost all of them were filled.*

***20. What responsibility do you have for initiating or monitoring substance abuse treatment programs? If you have a role, how do you relate to the Division of Addiction and Recovery Services? How do you assess the needs of inmates? What is the status of these programs in light of budget cuts?***

I am responsible for assisting DARS in the operation of existing programs in the institutions within the GP III/IV Mission as well as the identification of potential locations for additional SAP's. Existing and proposed programs are evaluated on an ongoing basis as changes to the needs of the inmate population are identified. The individual needs of the inmates are assessed at each institution and waiting lists are established for those inmates meeting the criteria for inclusion in the SAP program. I monitor the waiting lists and program vacancies in the programs located in the GP III/IV institutions to ensure there is an adequate population identified for each program. This is accomplished by reviewing weekly reports produced by DARS that identify the total vacancies and current waiting list at each institution with a SAP. When vacancies are identified in a specific program, the warden is contacted to ensure that appropriate inmates are identified, evaluated, and assigned to the program or placed on the waiting



list. If vacancies cannot be filled through this process, waiting lists at other institutions with similar programs and custody levels are canvassed to identify appropriate program candidates that may be eligible for transfer to fill the vacancies. This coordination is accomplished through meetings with DARS, the Classification Services Unit, and the Population Management Unit.

I also monitor the effectiveness of the programs through the weekly Program Closure Report produced by DARS. Using that report, I am able to monitor program closures and work with wardens to ensure the programs are fully functioning on a regular basis. Institutions with limited or suspended operations are contacted to determine the causes of program closures. Discussions are initiated with identified institutions to overcome the impediments to full operation. This allows the inmate population the maximum opportunity to benefit from the program.

As previously mentioned, I monitor the Substance Abuse Program operations during lockdowns and modified programs using the Program Status process. These programs as in the education and self-help programs are given top priority for reopening as soon as it is safe to do so. Additionally, the non-involved inmate population is returned while the institution continues to address the issues with the involved groups. This issue is monitored throughout the process until the entire institution or facility is returned to normal program.

Budget shortfalls resulted in closure of rehabilitative programs for two months at the beginning of the current fiscal year due to a lack of funding to pay contractors operating the programs. These programs have since been returned to full operation. As non-essential contracts have been identified for suspension or cancellation during these difficult fiscal times, those associated with the SAP programs are not currently being considered for elimination. These programs are deemed essential for the department to meet part of its core mission of rehabilitation and recidivism reduction.

### **Infrastructure**

*The Los Angeles Times recently reported on the quality of drinking water at North Kern State Prison, referring to high levels of arsenic. CDCR staff at a number of prisons bring their own water, choosing not to drink the water produced.*

- 21. What is your responsibility for monitoring drinking water quality at the prisons under your management? If it is not your responsibility, who is responsible? Are you aware of any institution where water is judged unhealthy to drink?**

As Associate Director over the GP III/IV Mission, I am responsible for overseeing the operation of the institutions in my Mission. The wardens within my mission are

responsible for overseeing the operation of their assigned institutions, including monitoring the drinking water quality. Staff in the GP III/IV prisons typically become aware of issues with drinking water quality via reports produced by the Department of Public Health (DPH) and the California Regional Water Quality Control Board. In some cases, institutions have a documented history of marginal drinking water which prompts the institution to conduct periodic testing of the drinking water independent of the DPH. I ensure that institutional staff are aware of their responsibility to inform me of any significant events and issues concerning their institution, including unsafe drinking water. When institutional water supplies are tested and found to be unsafe, the institution's administrative staff initiate procedures to ensure the inmates and staff are provided with safe drinking water in the short-term, as long-term solutions are developed, proposed, approved and implemented. The Warden and institution staff collaborate with the FPCMD to gain approval for Section 6 requests, Special Repair Projects or Capital Outlay Projects related to long-term safe drinking water solutions. Within CDCR, the FPCMD has the ultimate responsibility for monitoring and correcting drinking water quality. I am responsible for reviewing and approving or denying each of these requests.

In regard to the GP III/IV institutions, there have been no recent issues related to water quality. However, Centinela State Prison recently experienced a water main break, resulting in the water supply for the institution being temporarily disrupted. The institution responded by purchasing bottled water for staff and inmates, and facilitated the repairs to the water main concurrently. The incident was resolved quickly and with very little disruption to normal operations. This type of response demonstrates the institutions' preparedness for managing water related incidents efficiently and effectively.

### **Board of Parole Hearings**

*The Board of Parole Hearings typically will describe to life-term inmates the type of programs – such as obtaining a high school diploma or Alcoholics Anonymous – a prospective parolee should enroll in.*

- 22. How do you communicate with the Board of Parole Hearings regarding logistical support for the parole revocation and lifer hearings scheduled at your prisons? What processes do you have to ensure that this coordination is as seamless as possible to avoid postponed hearings? Do you encourage wardens to initiate discussions to inform commissioners of the programs available at your facilities?**

Communication between DAI staff and Board of Parole Hearings (BPH) is critical to the success of parole revocation and lifer hearings. The BPH conducts numerous hearings throughout the state on a weekly basis. I ensure that the commissioners assigned to



the institutions under my authority have my contact information, as well as that of the wardens. This information is periodically updated as changes in institution administrative positions are made, and shared with the commissioners via the institution Litigation Coordinators and the BPH headquarters office. In addition, an informational binder has been assembled at each of the institutions and is located in the BPH board room that provides information to the commissioners regarding all of the programs and services provided at that institution. This information is periodically updated by the Litigation Coordinator's office at each institution as program changes are implemented.

Processes have been established to ensure process for admitting attorneys, victims, and/or victim's next-of-kin is expeditious and that they are treated respectfully and courteously throughout the process. The Classification and Parole Representative is fully engaged throughout the process to ensure all notifications have been made in a timely manner and that all documentation and reports are completed and made available to ensure the hearings can proceed as scheduled. Additionally, the wardens have been made aware the need to ensure that assistive devices, such as wheelchairs, are available to those in need ensuring there are no cancellations or unnecessary delays for this reason. This is monitored at each institution on a regular basis.

The Board of Prison Hearings also provides a monthly Life Parole Consideration Hearing Postponements Executive Summary that outlines the reasons these hearings were postponed during that month. We utilize these within the mission to ensure wardens are aware of these issues and have taken corrective action to prevent future occurrences. These action plans are monitored to ensure similar issues do not continue to present themselves.

During Warden's Meetings, conference calls with the wardens and institution administrative staff, and during mentoring conversations with individual wardens, I have established my expectation that BPH hearings are scheduled on time and that the commissioners are provided with the necessary resources and support to complete the hearings. The wardens have dedicated sufficient resources and staff to ensure all lifer hearings and parole revocation hearings are timely and continue to stay within compliance.

## CAROL DEAN

### North Coast Regional Water Quality Board

#### STATEMENT OF GOALS

1. *What do you hope to accomplish during your tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?* I applied for a position on the North Coast Regional Water Quality Control Board as an individual who is concerned about quality of life issues and as a community activist who sees the needs to balance government, regulations and costs to the public. Water is a precious commodity that needs to be conserved and protected for all beneficial uses and users. Water is also important in controlling the economy and quality of life for all those who reside in the North Coast region, California and beyond. I believe everyone should be committed to environmental protection, conservation, reuse and compliance. My goal when I joined the board was to ensure that all communities, large and small, have a level playing field in dealing with governmental regulations and boards. Since serving on the board I have discovered that this is also a goal of the regional board staff as well. We have had to make some painful decisions that we know create hardships but have seen water quality improve. There is no better way to measure success than to see an improvement in water quality. My goal for the board is to see it continue to work on distressed water sheds in a comprehensive and consistent manner.
2. *What do you believe are most serious issues facing your board?* At this period of time, I would have to say the budget, and having enough staff to do the work already required and that which the board would like to mandate.
3. *How does your board help the public understand the state of water quality in your region? Do you believe that the information on your website is adequate? Where should the public go for information on water quality issues, such as beach closures, sewage spills, or the overall quality of water in rivers and streams in your region?* Study sessions and workshops help attendees of board meetings understand the complex issues regarding water quality in the region. Staff is also very willing to meet with any individual at additional times to explain and educate those who ask. Our website is quite comprehensive and all documents are easily assessable. The only suggestion might be links to various cities and counties in the region. The web site is a perfect medium for public information. But it cannot be the sole means of information. Beaches must still be posted and in serious health threats or life threatening situations, the paper, radio news and television should still be utilized. City and county websites can also post information for their particular area in the region.

#### STATE AND REGIONAL BOARD ROLES

#### Senate Rules Committee

FEB 03 2009

**Appointments**



The issues addressed by regional water boards are often scientifically complex. Preparation for hearings can be time-consuming for board members, particularly considering these are part-time positions.

4. *Who is available to assist you at the state board and your regional board to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?* Whenever I have a question, I ask the executive director and since I live close to the office she arranges a meeting with the appropriate staff member to meet with me to go over my questions or concerns, or through e-mail exchanges. To date, I have always been able to get the information I need. If my question is a legal one, one of the attorneys assigned to our region will get back to me either via e-mail or telephone. Going to the EO first gets me routed to where I need to go for information. I find this is an efficient way to obtain the necessary information.
5. *What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your board's agenda? How do you know when to withdraw yourself from voting on an issue? Have you ever done so since being appointed to this board?* When I was first appointed to the board Phil Wyels, the Assistant Chief Counsel to the SWRCB came to Santa Rosa and gave me an in depth orientation. At the time I had just been appointed to fill a vacancy on the Santa Rosa City Council so the City of Santa Rosa also provided me with council. My term on the council has expired. If I have any question about my ability to vote on an item I notify the Executive Officer who then asks the appropriate attorney for the board for a ruling. I would rather be safe than sorry. Yes, I have abstained twice from voting.

The Porter-Cologne Water Quality Control Act generally establishes the relationship between the state and regional boards. Regional boards usually set water quality goals in their basin plans, develop total maximum daily loads (TMDLs), and enforce permit and discharge requirement, as well as state and federal water quality laws. However, regional board budgets are not reviewed individually by the Governor or the Legislature, and most regional board staffing decisions are made at the regional level, not the state level.

The state and regional board structure has been criticized by both industry and environmental groups for being cumbersome and lacking accountability, efficiency, and transparency. Both sides note that major policy issues often are decided through the state board appeals process instead of through a consistent statewide policy that is proactively established by the state board and implemented by the regional boards.

6. *What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?* California is a large state with complex ecosystems which means it is hard to have one regulation that fits all regions. I see the roll of the state board as the overseer and delegator of basic regulations and the regional boards as the implementer of the

regulations based on what is feasible for that particular region. Each area is unique so even within a region one TMDL does not address each watershed in the region. The current set up gives each regional board the ability to really know the region and how best to deal with those particular issues. The current relationship takes the "political" pressure out of the arena and focuses on the health of water quality. They hear complaints as well but understand that no one likes to be regulated.

## **California State Budget Crisis**

California's dire fiscal situation has affected all parts of state government.

7. *How do you, as a board member, stay informed of the fiscal resources available to your board? How does your board prioritize activities if not all can be undertaken? What are your priorities?* Most of our resources come from permit fees and penalties the board handles and not much from the general fund of the State. My priority is how to get the biggest bang for the buck. I look to staff to give advice on what can be accomplished, what the results will be vs. costs. Regulatory programs are supposed to support themselves.

## **Enforcement of Water Quality Laws**

Several years ago, the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. The report stated that the boards were very slow to enforce clean water laws, almost never sought criminal penalties for serious violations, and generally did not aggressively pursue violators.

8. *What enforcement options do you believe provide the most effective tools for violations of board orders?* Obviously financial impacts get attention. I am in favor of mandatory fines with significant portion going to mitigation, preferably to a project that will eliminate or reduce the probability of repeat violations. In my short tenure on the board we have threatened referral to the attorney general and are closely monitoring the situations. There are several options available to the regional board and I am in favor of issuing a warning which encourages the violator to comply and then get more aggressive and punitive.
9. *What staff is available to assist you in enforcing water quality laws? Is the number of staff adequate for enforcement purposes? If you must prioritize enforcement efforts, what are the priorities and how are they determined?* From my perception, staff is very responsive to any report of violations and the board is continually updated. Our efforts are to rectify the cause of the violation and to mitigate the impacts of the violation. Penalties are always invoked. Staff has its own council to advise them legally and the board has a separate attorney to make sure we follow the rules and laws. I would say staff functions well but any cutbacks will threaten the board's ability to function at today's standards. Priorities obviously will go public



health and safety. The sheer number of discharges requires more funding than is available for enforcement. Self reporting helps but is not the answer. Enforcement is driven by mandatory minimum penalty directives from the state board. Staffing and funding are the biggest hurdles.

### **Septic Rule**

Chapter 781, Statutes of 2000 (AB885, Jackson), requires the state board to develop, adopt and implement statewide regulations for permitting and operation of on-site wastewater treatment systems (OWTS), commonly referred to as the "Septic Rule". The board recently proposed draft regulations which are currently available for public comment until February 9, 2009.

10. *Has the state board articulated a role for the regional boards in implementing this rule?* There is a workshop in Santa Rosa later this month which will help me understand what concerns the public may have. My understanding is that the state will be setting minimum standards which will be incorporated into the various basin plans.
11. *How does the board intend to monitor, enforce and improve septic systems that contribute to surface and groundwater pollution?* The regional board and local governmental agency may have more stringent regulations than the statewide standards. The North Coast Regional Board has given the counties the authority to issue permits and deal with violations. The board will continue to coordinate and track the various county programs. Regulation of septic systems is long overdue and as with any new regulation will be closely watched.

### **Nonpoint Source Pollution – Freshwater Creek and Elk River**

At the board's strategic plan workshop last year, one of the most identified pollution sources in the North Coast region was nonpoint pollution, which includes sedimentation.

For at least five years, your board has tried to deal with the issues of water quality specifically due to sedimentation buildup in the Freshwater Creek and the Elk River areas of Humboldt County. Your executive officer has issued orders for technical reports on abatement actions for dischargers who harvest timber in the area. The board has issued cleanup abatement orders on these same timber harvest operators, however, Freshwater Creek and Elk River residents still complain about the impairment of their water, both for agricultural and domestic uses.

12. *What do you believe the board should be doing to address nonpoint source pollution in these two areas? Specifically should additional action be taken to mitigate the sedimentation buildup? What is the timetable for resolving these issues, and how do you monitor progress?* As you may know, ScoPac/PalCo filed bankruptcy and the bankruptcy court has approved the purchase of the property to Humboldt Redwood Company who's owners have a proven track record of working with the regional board and achieving results in Mendocino County (Mendocino

Redwood Company). This change of ownership just recently took place. HRC will practice selection harvesting which will be less of an impact, has a good public relation track record and will be particularly mindful of water quality. Future actions planned include, but are not limited to, combining all orders and WDRs into a single WDR, one for Freshwater and one for Elk to comply with the TMDL to be adopted for each area. The TMDLs final adoption is about 18 months away. Funding seems to be limiting factor in expediently dealing with flooding and stream restoration.

#### **Fee Collection/Timber Harvest Review**

13. *How does your regional board pay for the costs of timber harvest plan review? Does your board collect a fee for review to pay for the regional board's costs associated with the water quality review of such plans? If so, what is the amount of the fee? Does fee revenue stay with the regional board or is it forwarded to the state board?* This program is currently funded from the state's general fund. However, our board does charge a \$1226 yearly for each timber harvest plan and the state board collects the fees and puts them into their waste discharge fees fund. The regional board does not receive any allocation from the state board for timber harvest review.
14. *Do you have any suggestions as to how to better ensure any fees collected by the regional boards stay with those boards to help pay for staffing and other review and enforcement costs?* The state board could change its policy to allocate funds from the fees collection to pay for the program.

#### **Harmful Algal Blooms and Klamath River TMDL**

Blue-green algae blooms have been found in the Klamath River, Big Lagoon, and the Eel River. A study by the Center for Integrated Marine Technologies (CIMT) points out that these blooms negatively affect fish, marine mammals, and seabirds. Some algal species cause large fish kills by clogging up or lacerating the fish's gills.

The CIMT report said that there is growing evidence that human contributions of phosphorus and nitrogen are causing the blooms to occur more frequently and contributing to their duration and severity. A presentation to your board on December 11<sup>th</sup> discussed the TMDL process for the Klamath River. Staff said that 76 to 80 percent of the phosphorus and nitrogen would have to be eliminated in the river to achieve TMDL compliance. Staff also indicated that the TMDL would not directly deal with blue-green algae.

15. *What is the extent of harmful algal blooms in inland and marine waters in your region? How serious are the negative effects on fisheries and marine mammals? How does your board determine the seriousness of those effects?* The Klamath River is actually more impaired at its source in the State of Oregon than it is at its outfall in the State of California, which is most unusual. The area of most concern for harmful algal blooms is in the hydro reservoirs on the Klamath River. Blooms are also found in areas below the hydro dams. Blue-green algae toxins have been found



in fish in the Klamath, but we have information that it has been found elsewhere. We consider the algal blooms to be of significant concern.

16. ***Is it feasible to eliminate 76 to 80 percent of the nutrient loading in the Klamath River? What type of restrictions would have to be imposed to achieve this level of reduction?*** As stated above, the Klamath originates in the State of Oregon and the largest portion of nutrient loading of the Klamath originates from Oregon in the Upper Klamath Basin and Lost River watershed which effects and impacts the hydro reservoirs. The Shasta River further impacts the nutrient loading but the Shasta River TMDL implementation has show water quality improvements in the Shasta. Oregon would have to reduce its nutrient loading levels by treatment, infrastructure improvements and long-term restoration projects. If dam removal does not occur, there are some in-reservoir engineered options that may provide some relief. All together it is possible, but will take many years to achieve.
17. ***When will the TMDLs for the Klamath River be completed? As information is developed by the board, can it be released to contribute to the discussions and negotiation regarding the Klamath River?*** The regional board's website already contains information regarding the Klamath TMDL and will be updated as new information is available. The current timeline for the TMDL is for public draft to be released this coming May with regional board consideration scheduled in October 2009. From there it will go to the state board for final adoption.
18. ***Are the adoption of the Klamath River TMDLs integral to the broader discussion of poor water quality and dam removal on the river?*** Absolutely. When the public draft is released it will show that the technical analysis to be a comprehensive look at water quality – its current condition, causes of impairment and solutions.

### **Emerging Contaminants**

New and emerging contaminants are unregulated. They may be new contaminants present but not detected. Among these are pharmaceuticals and personal care products, industrial chemicals present at low concentrations, and chemicals that may affect the hormone system, referred to as "endocrine disruptors."

Additionally, new testing by independent organizations has turned up pharmaceuticals and over-the-counter medicines affecting drinking water supplies across the country. While the findings reported by the Associated Press in March 2008 involve miniscule amounts of various pharmaceuticals, concerns over long-term consequences to human health and possible additional testing have resurfaced.

Under current law, required testing and standard limits for pharmaceutical and over-the-counter drugs in drinking water are limited. Beginning in January 2008, several water systems began monitoring under the U.S. Environmental Protection Agency (U.S. EPA) Unregulated Contaminant Monitoring Regulation for contaminants detected from the contaminant candidate lists. These are potential contaminants that the U.S. EPA may

regulate in the future. Federal and state laws give authority to U.S. EPA, the California Department of Public Health, or the regional water boards to regulate contaminants, which could include pharmaceuticals.

The Department of Public Health has developed draft regulations and is proposing to require an analysis of specific unregulated chemicals and report detections for certain groundwater recharge and reuse projects. These chemicals include pharmaceuticals, endocrine disruptors, and other wastewater indicator chemicals.

19. *In your view, what is the role of regional water boards regarding required testing and standard limits for pharmaceuticals and over-the-counter drugs in drinking water? Should the state water board, through regional boards, be working with the California Department of Public Health re require testing and set safety limits for drugs in drinking water?* I see this as an emerging issue and will need to be hashed out similar to the septic issue. Well users already test their water. As the science improves we will be better equipped to address the issue.
20. *To what degree is your board monitoring these and other emerging contaminants? How are you informed of new sources of pollution?* Staff and board members attend workshops sponsored by various national and state water associations such as California Association of Sanitation Agencies.
21. *What other state agencies are involved in this monitoring process? Do you share your information with other drinking water and public health agencies?* We are always willing to share information with other state agencies or associations. California Department of Public Health and the state board are great sources of information.









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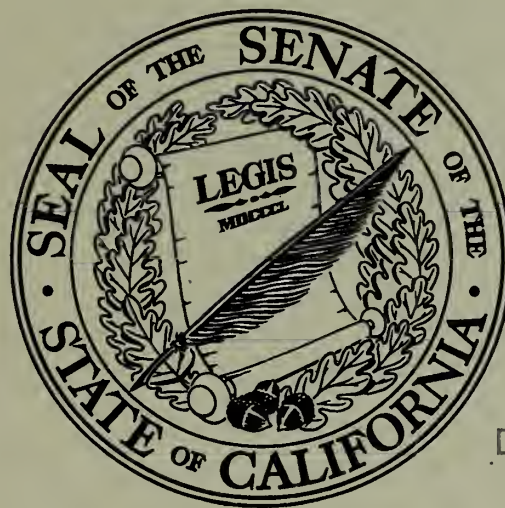
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STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

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WEDNESDAY, MARCH 18, 2009

1:40 P.M.

--oOo--

Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713



SENATE RULES COMMITTEE

STATE OF CALIFORNIA

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APPEARANCES

MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

DAN SAVAGE, Assistant to SENATOR CEDILLO

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

ALSO PRESENT

MARGARET G. FORTUNE, Member, Trustees of the California State University

HENRY J. AGUILAR, Member, Board of Parole Hearings

TROY E. ARBAUGH, Member, Board of Parole Hearings

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**PROCEEDINGS**

1 SENATOR AANESTAD: We'll start as a

2 subcommittee. The chair will be here momentarily, but I

3 think we'll skip to agenda three.

4 First of all, I'll have you take the roll.

5 MS. BROWN: Senator Cedillo.

6 SENATOR CEDILLO: Here.

7 MS. BROWN: Dutton.

8 SENATOR DUTTON: Present.

9 Oh, Cedillo here. Dutton here.

10 Oropeza.

11 Aanestad.

12 SENATOR AANESTAD: Here.

13 MS. BROWN: Aanestad here.

14 Steinberg.

15 SENATOR AANESTAD: We have a quorum. We'll get

16 started as a committee.

17 We have with us first today Margaret Fortune,

18 and I understand Assemblyman Niello wants to go ahead

19 with the introduction, so please get started.

20 ASSEMBLYMAN NIELLO: Yes. Thank you very much,

21 Mr. Chair and Members. Margaret Fortune is here before

22 you for confirmation today. She is a good friend of

23 mine and has a long and distinguished career in

24 education locally.

1

1 Before I met Margaret, I sort of followed her

2 on things she was then doing locally. And she has

3 worked in the administration, as you know, I'm sure,

4 from her agenda. She is particularly successful in

5 areas of trying to close that achievement gap that we

6 struggle with so much here in California. And I'm just

7 here to introduce Margaret for support for her

8 confirmation, and I enthusiastically recommend that.

9 SENATOR AANESTAD: Thank you very much.

10 And welcome to you, Ms. Fortune. Do you have

11 anybody here that you would like to introduce as far as

12 family, friends, support groups, et cetera?

13 MS. FORTUNE: Yes, Senator Aanestad. First, I

14 want to thank Mr. Niello for his introduction. I know

15 he has to go off to another meeting, but I appreciate

16 his friendship.

17 And I would like to introduce my parents who

18 are here with me today, Dr. and Mrs. Rex and Margaret

19 Fortune.

20 Stand up, Mom and Dad.

21 (Applause.)

22 CHAIRMAN STEINBERG: Thank you.

23 MS. FORTUNE: Senator Steinberg, always great

24 timing.

25 I'd also like to introduce some very special

2

1 people here, my staff at Project Pipeline. Ladies and  
2 gentlemen, would you please stand.

3 I want to thank them for coming today and  
4 acknowledge among them are three Sac State graduates,  
5 graduate students, who staff our research and evaluation  
6 department which my father runs at Project Pipeline. We  
7 train and credential teachers for California public  
8 schools with specialty in math, science, and special  
9 education. So thank you all for coming and for being so  
0 supportive.

1 (Applause.)

2 MS. FORTUNE: Senator Aanestad and Senator  
3 Steinberg, those are the guests that I have with me  
4 today.

5 CHAIRMAN STEINBERG: Thank you very much,  
6 Senator Aanestad, for chairing the meeting, and I  
7 apologize for being late.

8 Welcome to you, Ms. Fortune.

9 MS. FORTUNE: Thank you.

0 CHAIRMAN STEINBERG: Margaret, I've known you  
1 for a long, long time.

2 MS. FORTUNE: Yes.

3 CHAIRMAN STEINBERG: Would you like to make an  
4 opening statement?

5 MS. FORTUNE: I would. Thank you, Senator

3

Steinberg. I'm really excited to be here today. This  
appointment to the California State University Board of  
Trustees is an important one to me, and I thank the  
governor for acknowledging my work and appointing me to  
this board.

Education is my life's work, and I follow in  
the footsteps of my parents and their parents in doing  
this work. The year that my father retired as a school  
superintendent, I became one, starting schools to serve  
kids that were in schools that were low performing.

So as I take on this position as a CSU trustee,  
and as I have served for the past year, my number one  
priority is closing the achievement gap. I think that  
we have a terrible waste of human capital in the  
dropouts from our high schools in this state, and that  
they represent an incredible potential as we look at  
restoring California through our fiscal crisis and  
making sure that every citizen has an opportunity to  
live up to their true potential.

So I am particularly pleased to be a part of  
the board, Senators, that has, before I got there,  
embraced the mission of halving the achievement gap in  
ten years. One of my first votes was to adopt the  
Access to Excellence strategic plan that established  
that goal, and I salute the CSU for bellying up to the

4

1 challenge in a way that many of our public systems,  
2 frankly, have not.

3 The other night, the co-directors of our newly  
4 established Center for Closing the Achievement Gap  
5 invited me to be a part of their advisory board, and I  
6 gladly accepted. And I know that one thing for sure,  
7 that on these boards, we, as volunteer citizens, have to  
8 focus on a few items that we intend to do well, and so  
9 this item of closing the achievement gap and dealing  
10 with high-school dropouts and providing people the  
11 opportunity to better themselves through higher  
12 education and delivering on the promise of the CSU is my  
13 agenda that, if this group sees fit to confirm me, I  
14 will be honored to spend the next seven years pursuing.

15 CHAIRMAN STEINBERG: Thank you very much,  
16 Ms. Fortune. Of course, this is an important  
17 appointment. The job itself is important, but also the  
18 length of the tenure. So I would like to ask you how  
19 you would break down the achievement gap, because I  
20 would assert that though the achievement gap is a subset  
21 of education reform, it, in and of itself, is a huge  
22 issue.

23 Where do you begin as a CSU trustee to begin  
24 impacting the achievement gap? Question.

25 MS. FORTUNE: Thank you for the question.

5

1 You really reinforced my point that a trustee  
2 who is serious about that mission could spend the next  
3 seven years just focusing on that and still not get  
4 finished.

5 It's a complex question. One is -- The reason  
6 why I think it's a good thing that the CSU has taken the  
7 question on is that the CSU is a system. However you  
8 argue that it's difficult to marshal 23 campuses behind  
9 a particular agenda, the reality is they all -- the  
10 presidents report to one chancellor, who I want to thank  
11 for being here in my support, Chancellor Reed -- they  
12 all report to a board of trustees. They're not 1,065  
13 different systems with different governing boards, which  
14 the K-12 system frankly is.

15 So, first, to have adopted it as a strategic  
16 mission for which we are willing to be held accountable  
17 is the first step in a public institution of our size,  
18 the largest university in the United States. That's the  
19 first step.

20 Second, I think the thing I'm most interested  
21 in having our Center for Closing the Achievement Gap do  
22 is the math. If we had students who were proficient in  
23 their -- in the K-12 academic contents standards, how  
24 many more would we have to move to proficiency in what  
25 subjects, and where are they, and, therefore, have that

6



1 logic drive our mission behind establishing pilot  
2 projects and establishing partners.  
3 And then I think we have to back into our goal.  
4 If we're going to halve the achievement gap in ten  
5 years -- First of all, we have about nine years and six  
6 months left, and we have to pace ourselves and be  
7 specific about how we intend to accomplish that.  
8 One of the levers that the CSU has to pull is  
9 the fact that we prepare most of the educators in the  
10 state, so I think we have to be very purposeful and  
11 deliberate about preparing teachers and administrators  
12 and counselors that are about the business of closing  
13 the achievement gap, which means they're very good in  
14 assessment, which means they are willing to spend more  
15 time, which means they believe in high expectations, and  
16 they're willing to work with parents and students who  
17 may have shown that they were unwilling or unable to get  
18 there before to reach that goal.  
19 The other lever that we have to pull is access  
20 to college. That is the golden carrot for students who  
21 are dropping out. It's more so than parents, in my  
22 experience, embrace and understand what it means to be  
23 proficient in algebra by the eighth grade and to get  
24 what it means to have your kid go to college. And that  
25 is an attainable dream if we prepare kids in the right

7

1 way.  
2 So I think there's also, Senator Steinberg, a  
3 communications piece to this, that the CSU has to be on  
4 the front lines of communicating that college is an  
5 opportunity, that you can have it, that these are the  
6 steps. And when you get there, we expect you to be  
7 prepared, while at the same time owning our  
8 responsibility for remediation that we take on because  
9 so many come to us unprepared.  
10 CHAIRMAN STEINBERG: Thank you. Let's take  
11 questions from other members of the Committee.  
12 Senator Dutton. Senator Aanestad.  
13 SENATOR AANESTAD: I just want to say that we  
14 had a nice conversation regarding some of my concerns,  
15 namely, the shortage of nurses, the shortage of  
16 teachers. We discussed that at length. I'm not going  
17 to bring that up here again.  
18 Suffice it to say, I think I'm very satisfied  
19 that Ms. Fortune understands the complexity of trying to  
20 train more nurses, the costs involved, and what we need  
21 to do. And that is a priority that I think we should be  
22 looking at for the state. And the university system  
23 needs to address even more than it has, starting from  
24 basic entry into nursing and then developing more  
25 instructors of nursing so that we can have more

8

1 programs.  
2 I think she understands that very well, and I'm  
3 not going to go into any questions here unless there is  
4 anything about that that you want to comment on.  
5 MS. FORTUNE: Thank you, Senator. I do  
6 understand it very well and understand we have a  
7 shortage of nurses, and I understand that as we  
8 encourage students to come into the CSU system, I also  
9 personally encourage them to come in strategic majors,  
10 like nursing.  
11 And I think there's a lot of room for  
12 partnership at the CSU and community colleges,  
13 particularly as we look at facilities for these  
14 programs, to look at how we can do more. We have had a  
15 strategic nursing initiative. We encourage enrollment  
16 in that direction. I think it's the right thing to do.  
17 And on the additional topic that you brought up  
18 along those lines in terms of the preparation of  
19 teachers, we also had a very nice discussion about my  
20 work and my knowledge as a part of doing that on a  
21 day-to-day basis. So I thank you very much for our  
22 conversation this morning.  
23 SENATOR AANESTAD: That's fine.  
24 CHAIRMAN STEINBERG: Let me ask a couple --  
25 Senator Cedillo. I'm sure you --

9

1 SENATOR CEDILLO: Not yet.  
2 CHAIRMAN STEINBERG: Not yet. Okay.  
3 Let me ask you a couple of specific questions,  
4 if I may, Ms. Fortune. One question that arises at  
5 every level of government is whether we're maximizing  
6 the use of our physical resources, and in this instance  
7 with the CSU, whether we are maximizing the use of the  
8 physical capacity of our system.  
9 Students are having a hard time getting courses  
10 during the year, and yet summer school does not seem to  
11 be widespread within the university system. What are  
12 your feelings on that?  
13 MS. FORTUNE: My feelings are, Senator  
14 Steinberg, that we have a tremendous opportunity to  
15 maximize our resources, but it doesn't have to do with  
16 our facilities. It has to do with going more  
17 aggressively into the space of offering online degrees.  
18 This is an issue that I brought up at the  
19 trustee level. And, in fact, next week we will be  
20 hearing a presentation at the board of trustees, at my  
21 request, on online degrees within the system.  
22 Those of you -- I know you don't have a lot of  
23 time, but if you have any time to watch television, you  
24 may have seen some of the advertising that's going on  
25 from private, for-profit, proprietary institutions that

10



1 are talking about getting into the online space, any  
2 time, anywhere education, and being where the student is  
3 as opposed to making the student come to you.

4 There are some of our campuses that have gone  
5 very aggressively and very successfully in this phase.  
6 CSU East Bay is an example of such a campus, and  
7 President Mo', as we affectionately call him, who is on  
8 "Mo' Time," which means do it, do it fast, and get it  
9 done, has an excellent model. And we will be hearing  
0 from him at the board of trustees.

1 I think that looking at online degrees, not  
2 just online courses, but online degrees, allows us to  
3 turn this question of access on its head, because it  
4 opens up the possibility that those who are in rural  
5 regions, like the regions you represent, Senator  
6 Aanestad, those that are in the cities but are taking  
7 care of children and home-bound, those who are  
8 retraining in this economic downturn to do something  
9 else, it opens up the door to those career changes and  
0 also takes advantage of the fact that students who are  
1 coming in straight out of high school have a different  
2 level of expectation about how courses are delivered and  
3 that it is entirely feasible -- and this is done at CSU  
4 East Bay -- that they have a menu of courses that  
5 they're taking, some in a very traditional fashion but

11

others right there in the dorm room, online, as a part  
of a mix.

So -- I am on the facilities committee, but I  
actually believe that online delivery of instruction  
will change our notion of what we need by way of  
facilities and open up this access question that you  
have so appropriately raised.

CHAIRMAN STEINBERG: You don't worry about the  
quality suffering? Maybe I'm old-fashioned, but, you  
know, the idea of sitting in class and having sort of a  
real interaction with the instructor and other students,  
and the give-and-take, all of that, do you worry at all  
that there's another side to the access issue when it  
comes to online learning, namely that quality can  
suffer?

MS. FORTUNE: I don't. I don't worry about  
that as much, because I think that there are  
contingencies that can be taken as we look at  
undertaking this on a broader scale.

One of the things that I have learned as a  
trustee is that -- going back to the CSU East Bay  
example, the first thing they did was offer a master's  
in online education, and the number one consumer of that  
master's degree were their own faculty, to learn how to  
offer online education in a way that was engaging to

12

1 students.

2 It's actually a very high-touch environment,  
3 because it requires faculty to be on, and on more as  
4 students are engaging them, whether it's Skyping them or  
5 whether it's e-mailing them.

6 CHAIRMAN STEINBERG: Skyping?

7 MS. FORTUNE: You're worrying me, Senator  
8 Steinberg.

9 But it is different, and it's also not  
10 exclusive. In their experience, it's not as if students  
11 are only taking online classes. They're mixing up their  
12 plate of classes, and it includes that.

13 So I think that if, one, the faculty embraces  
14 it where they have some training in this mode of  
15 delivery, and where it is part of a mixed plate for  
16 students where they've got a diverse learning  
17 experience, it will enhance quality and show that this  
18 university system, the largest in the United States, is  
19 keeping with the times.

20 CHAIRMAN STEINBERG: Two more questions, if I  
21 may.

22 One, since you devoted, I know, a number of  
23 years of your professional life to teacher training and  
24 creating the pipeline, you're familiar with the work,  
25 historical work, with the Center for the Future of

13

1 Teaching and Learning --

2 MS. FORTUNE: Yes, I was on their board.

3 CHAIRMAN STEINBERG: You were.

4 -- which has shown pretty consistently that if  
5 you're a kid who goes to school with a high poverty  
6 rate, you are much more likely to be taught by someone  
7 without a credential; and if you are in a low poverty  
8 school, you're much more likely to be taught by teachers  
9 with full subject-matter credentials.

10 MS. FORTUNE: Uh-huh.

11 CHAIRMAN STEINBERG: Do you believe that CSU is  
12 doing enough to address that gap? And, if not, what do  
13 you intend to do as a trustee to ensure the pipelines  
14 we're creating through the CSU system are geared towards  
15 trying to deal with that serious discrepancy?

16 MS. FORTUNE: I think that when the Center for  
17 the Future of Teaching and Learning put out their first  
18 report -- and I remember that year you were entering the  
19 Assembly, and I was assistant secretary for education in  
20 the Davis administration -- and what they pointed to was  
21 a huge proliferation of emergency permit holders that  
22 were teaching in these schools of high poverty and where  
23 there were high numbers of minority children.

24 When I was chair of the commission on teacher  
25 credentialing, I took that on, and to reduce the

14

1 reliance of school districts on emergency permits and  
2 the emergency -- there's been a significant decline in  
3 emergency permits to the extent that the agency actually  
4 had to find another funding source to maintain  
5 themselves, because they were so relying on the fees  
6 coming in from emergency permit holders.

7 So I think that since the center started its  
8 work, the story has changed, and I think that they  
9 should take a lot of credit for calling our attention to  
10 it.

11 There's one area in which I have always  
12 differed with the center, even when I was a board  
13 member, and that is the characterization of intern  
14 teachers, or teachers who become certified through  
15 alternative certification, as under qualified and  
16 lumping them in with the emergency permit population. I  
17 think that that is wrong, and I think it's inaccurate.

18 I think alternative certification offers a  
19 valid pathway, typically for career-changers, always for  
20 people who know their subject matter, to get into the  
21 teaching profession and to learn by doing, which is a  
22 model that we actually promote at the CSU through such  
23 institutions as Cal Poly Pomona, Cal Poly San Luis  
24 Obispo. Those institutions are based on the premise  
25 that you do learn by doing.

15

1 I think that teachers who come through these  
2 pathways, the data shows that they tend to stay in those  
3 schools at higher rates than their colleagues who go  
4 through traditional teacher preparation. They tend to  
5 be from the communities in which the schools are. They  
6 tend to be more diverse.

7 For our own program that I run, and there are  
8 many of these programs that are also run by the  
9 California State University system, our sweet spot is  
10 career-changers. Fifty-three percent of the  
11 participants in Project Pipeline are between the ages of  
12 35 and 45. Twenty-five percent of them are older than  
13 that. So a minority of folks are coming in brand  
14 spanking new out of college. And I would contest the  
15 notion that someone who is 20 or 21 coming right out of  
16 college with student-teaching experience has more to  
17 offer children than somebody who is 45, competent in  
18 their subject, has gone through a two-year credentialing  
19 program with intensive support in the classroom, and  
20 that that's not a valid way. So that's where I would  
21 challenge the Center for the Future of Teaching and  
22 Learning.

23 Let me get to the point of: What does the CSU  
24 have to offer this conversation, given the volume? I  
25 think the number one thing that we could be doing a

16

1 better job of is producing teachers that have a point of  
2 view, and that point of view is that it's their job and  
3 their responsibility to close the achievement gap; that  
4 if that requires taking more time, having higher  
5 standards than what the State would require, getting  
6 greater levels of proficiency, that that's what it  
7 takes, and that's what we'll get.

8 And the CSU, as a part of the Center for  
9 Closing the Achievement Gap, I think has an opportunity  
10 to foster that attitude amongst our faculty as we  
11 prepare them to go into some of the most challenging  
12 teaching environments. Challenging, but not impossible.

13 CHAIRMAN STEINBERG: Okay. My last question is  
14 this: As a member of the board of trustees, how do you  
15 balance being a supporter of the institution and being a  
16 critic of the institution where appropriate?

17 MS. FORTUNE: I thought you were going to ask  
18 me how do I balance this with my day job. It's those  
19 people back there (indicating).

20 CHAIRMAN STEINBERG: There's that too.

21 MS. FORTUNE: Well, I think that by the very  
22 nature of my work, having pontificated as I did for --  
23 what was it, three months -- on alternative  
24 certification, that's not an institutional view when it  
25 comes to the CSU.

17

1 The CSU does most of its work in a traditional  
2 teacher-preparation space, and so that is the voice of  
3 dissent, and I think that it's important to allow the  
4 voice of dissent in the room. And so one area where I  
5 intend to have an impact is in teacher preparation, and  
6 I do represent another point of view than is the  
7 standard point of view.

8 I think the other thing that I bring to the  
9 table, Senators, is that I'm a trained policy analyst.  
10 That's my profession. That's my vocation. And so while  
11 I am not going to claim to know every aspect of this  
12 huge institution, I do know how to be analytical, and I  
13 do know how to ask questions, and I know how to hold the  
14 organization to account.

15 The other thing that I bring to the table that  
16 I think allows me to have a critical eye is that I have  
17 made a choice in my own career to be with the community  
18 and to be in a setting in a nonprofit organization where  
19 I have contact with schools, and to -- and where I'm  
20 very comfortable going into the black church and talking  
21 about college opportunity.

22 Just using that as an example, that can  
23 oftentimes be a pretty cynical environment when it comes  
24 to authority, or the government, or how people have been  
25 treated by the establishment. And I think the fluidity

18



1 with which I can move from the community to the board  
2 table actually creates a lot of value in my ability to  
3 have a critical eye but also a fair one.

4 CHAIRMAN STEINBERG: Thank you.

5 Witnesses in support.

6 Gil, sorry.

7 SENATOR CEDILLO: Couple things. Is this on?

8 Couple of things. I was very impressed for you

9 to have the chancellor and Roger Niello come and  
0 introduce you, one of the prominent members of the  
1 legislature. I was very impressed with two other  
2 endorsements that you have here. Parents of Watts.

3 MS. FORTUNE: Yes.

4 SENATOR CEDILLO: Tell me about your  
5 relationship there.

6 MS. FORTUNE: Sweet Alice. Sweet Alice is a  
7 dear friend of mine, and it's funny what happens when  
8 you go to the neighborhood escorted and when you go  
9 unescorted.

0 I came to know Sweets, as she likes to be  
1 called, when I arranged for her to meet Governor  
2 Schwarzenegger and Maria. She is a very big fan of  
3 Maria Shriver, because Sargent Shriver, after the Watts  
4 Riots, came and had a march in her neighborhood in the  
5 streets of Watts and helped to restore order there.

19

1 So when you go to Sweet Alice's home and her  
2 offices in the Parents of Watts, there are all these  
3 historical photographs that are very much rooted in the  
4 legacy of the Kennedy family and of the Shriver. But  
5 she had never met Maria. So I arranged for the governor  
6 and Maria to meet her, and she gave them a tour of her  
7 neighborhood.

8 And if you have never been there or seen her on  
9 that show -- what is it? Something about home  
0 renovations. It's an extraordinary thing. Here's a  
1 woman who started her work basically cooking barbecue  
2 and handing it out to the neighbors to feed the  
3 neighborhood, and then it got bigger than that. Then  
4 she found there was a need for child care, so she bought  
5 one of the houses and she started a child-care center.  
6 Then she found that there were people coming back from  
7 the neighborhood, from prison, that needed to be  
8 retrained, so she bought a house and she started to work  
9 with the phone company to retrain those that had been  
0 released from prison to enter into the fiber optics and  
1 work for the phone company. So little by little, she  
2 has purchased every home on this neighborhood, these  
3 little shotgun houses that she runs social programs out  
4 of.

5 So when you come with a big entourage, you

20

1 know, everybody is ready for. But then one day I  
2 decided -- I was in Watts, so I stopped by. So I stop  
3 by, and I drive in, and all of a sudden these whistles  
4 started happening. There's a stranger in the  
5 neighborhood. What that told me is this is an organized  
6 neighborhood.

7 And so I was really honored when Sweet Alice  
8 said that she would support me, because I consider her  
9 work to be legendary work, but it also teaches you the  
10 lesson that you don't have to wait for folk to do for  
11 you. Folk need to get up and do for themselves. And,  
12 yes, when you get that seed, your leadership in your  
13 community should support you, and that's what happened  
14 with Sweet Alice; but I like the fact that she went out  
15 there and struck out on her own, and she did it. And I  
16 really have learned lessons from her as I think about my  
17 own community organizing that allows me to think in  
18 unconventional ways.

19 The other thing I want to say is it's a modest  
20 operation. It's modest. And while it's wonderful to be  
21 in these kind of well-funded, comfortable nonprofit  
22 organizations where all the furniture is great, you know  
23 what? You can do the same work at the kitchen table.  
24 And there's a woman that does it every day, and I think  
25 she's remarkable. So thank you for asking me about her.

21

1 SENATOR CEDILLO: Tell me about, which is  
2 really near and dear to me, Theodore Roosevelt High  
3 School, Alberto Vaca.

4 MS. FORTUNE: Yes. That's your alma matre.

5 Albert and I went to college together. We were  
6 student organizers at Berkeley in an organization called  
7 Cal Students for Equal Rights and Valid Education. And  
8 we kept up with each other. We learned coalition  
9 politics together.

10 I met Albert sitting on the floor in the  
11 hallway of a building in Berkeley waiting to get grilled  
12 by all the heads of the organization, Mensa,  
13 Organization of African Students, Organization of Asian  
14 Pacific Islanders, and we were all terrified -- we were  
15 18 -- and we went in there and defended our positions.

16 Why did you ask?

17 SENATOR CEDILLO: Had to ask.

18 MS. FORTUNE: Let me just close by saying I had  
19 an opportunity to make recommendations --

20 CHAIRMAN STEINBERG: Take your time.

21 MS. FORTUNE: -- to the governor, Governor  
22 Davis. I recommended that Albert be appointed to the  
23 commission on teacher credentialing, because we had  
24 history.

25 SENATOR CEDILLO: I have two other questions,

22



1 if I may.

2 MS. FORTUNE: Thank you. Jeez.

3 SENATOR CEDILLO: Tell me a little bit from

4 being on the trustees. I'm interested in the challenges

5 you will have, that the system has, in recruiting

6 leadership both in teaching and in management, the

7 challenges that confront you, to make sure we have the

8 quality leadership at both levels. And how do we

9 compare at the private sector and how do we compare with

10 other states --

11 MS. FORTUNE: Are you talking about leadership

12 in terms of presidents, vice presidents, faculty?

13 SENATOR CEDILLO: Exactly. Exactly.

14 MS. FORTUNE: Well, it's an important question,

15 particularly for this time in which I will serve. In

16 the next seven years, I anticipate we will see

17 retirements.

18 I've already had an opportunity to help select

19 the president of CSU -- of San Jose State. I think

20 that's, actually, the most important decision that a

21 trustee makes, are -- you know, who will the campus

22 leadership be.

23 I think that we are challenged as a system in

24 recruiting campus presidents because of issues of

25 compensation. Now I know that the legislature and the

23

1 state auditor have had more than a few things to say to

2 the CSU system with regards to executive compensation,

3 and as a board member I am sensitive to that. But I

4 also have seen, in just this one experience with a very

5 important campus, that to come and be a campus president

6 in our system means that to get the best talent, people

7 are taking a pay cut. So I think that will be something

8 that this board confronts and -- So that's one thing.

9 I think also as you look at comparable

10 institutions, you'll see not only are our executives

11 behind, but so are our faculty. And so as a board of

12 trustees, you know, we're committed to getting both

13 groups there.

14 I think that the reality is that the fiscal

15 crisis puts that entire conversation on hold, because

16 everybody in the state is hurting, and everybody is

17 going to be asked to do more. And so it's a precarious

18 time to be in a position to want to recruit the best and

19 the brightest and yet have less in our pocketbooks to do

20 it with.

21 SENATOR CEDILLO: Finally, on this -- you

22 brought this up, but on this -- On the access question,

23 the question that Pro Tem -- I have a different

24 viewpoint on this, or concern.

25 On this access, what role does the digital

24

1 divide play in this, in online -- I'm interested in

2 that. I mean, in both those areas. Also, to what

3 extent does collective bargaining play in this? But I'm

4 really interested, because on some levels I appreciate

5 the --

6 We live in a changed world. The workplace is

7 different, so there's no reason why the classroom should

8 be the same when everything else around it has changed.

9 Obviously, it makes sense that our approach to the

10 delivery of educational services, education, would

11 likewise be changed.

12 The question is how -- What role does the

13 digital divide play in that?

14 MS. FORTUNE: I think that increasingly, even

15 in our high schools that sit in the middle of the

16 digital divide, the state has made an effort to fill in

17 that divide by offering -- by wiring, and on top of

18 that --

19 Having been a high-school principal and taken

20 away my share of cell phones, I know that even poor kids

21 in the inner city have plenty of access to hand-held

22 devices, and I think that that is the basic

23 infrastructure on which online course degrees is built

24 on a society in which people are increasingly plugged

25 in, whether it's plugged in through their cell phones,

25

1 or plugged in through their laptops, or plugged in

2 through laptops or computers that are in the library or

3 at Starbucks, or whatever it is. There are lots of

4 opportunities. And I think that for those that are in a

5 mode of retraining, that there's opportunity and that

6 there's access. Not that the digital divide is

7 nonexistent. Certainly, there are a lot of people

8 working on that problem; but I think our society has

9 changed enough for there to be some opportunity in this

10 space that will be an opportunity for everyone.

11 SENATOR CEDILLO: Thank you.

12 CHAIRMAN STEINBERG: Thank you very much.

13 I'm going to now ask for witnesses in support

14 and ask the witnesses to come up and be brief, please.

15 We have a lengthy agenda. We would like to hear some

16 brief words of support. If there's any opposition,

17 we'll ask them to be brief too.

18 Ms. Beliile.

19 MS. BELIILE: I'm Rae Beliile. I'm CEO of

20 Ed Voice, which is an advocacy network that advocates

21 for all students, but especially for ethnic minority

22 children who we think are especially hit by the teacher

23 issues that Margaret raised in her testimony. We think

24 that her input as a CSU trustee will be pivotal in

25 closing that gap and preparing teachers, and we support

26

1 her nomination.

2 CHAIRMAN STEINBERG: Thank you.

3 MR. JONES: Good afternoon. Branche Jones,

4 California Charter Schools Association.

5 It's a pleasure to support Margaret's

6 confirmation. She's a friend and also has been a

7 colleague, and we've been able to see pointblank her

8 commitment to everyone in the educational system,

9 especially underserved youth. Appreciate the governor

0 making the appointment and urge an aye vote.

1 CHAIRMAN STEINBERG: Thank you very much,

2 Mr. Jones.

3 Other witnesses in support. All right. Any

4 witnesses in opposition? Any witnesses in opposition?

5 No witnesses in opposition. That's very good.

6 Well, you know, I've known Ms. Fortune for a

7 long time, and she brings a great deal of expertise and

8 thought, and a very articulate way of presenting some

9 very, very difficult issues. I'm pleased to support the

0 nomination.

1 SENATOR CEDILLO: Moved.

2 CHAIRMAN STEINBERG: All right. Moved by

3 Senator Cedillo.

4 SENATOR AANESTAD: One comment.

5 CHAIRMAN STEINBERG: Yes, of course.

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1 SENATOR AANESTAD: You were talking about

2 compensation of CSU people. I think that CSU is

3 about to get the most underpaid person involved with

4 them in the next few minutes. Your testimony was just

5 so impressive. I think that you're just doing us a

6 favor, and you're going to be really underpaid. I just

7 want you to know that.

8 CHAIRMAN STEINBERG: Public service.

9 MS. FORTUNE: Right.

0 CHAIRMAN STEINBERG: Okay.

1 Please call the roll.

2 MS. BROWN: Senator Cedillo.

3 SENATOR CEDILLO: Aye.

4 MS. BROWN: Cedillo aye.

5 Dutton.

6 SENATOR DUTTON: Aye.

7 MS. BROWN: Dutton aye.

8 Oropeza. Aanestad.

9 SENATOR AANESTAD: Aye.

0 MS. BROWN: Aanestad aye.

1 Steinberg.

2 CHAIRMAN STEINBERG: Aye.

3 MS. BROWN: Steinberg aye.

4 CHAIRMAN STEINBERG: That will move now to the

5 Senate floor, and confirmation will be taken up

28

1 forthwith.

2 MS. FORTUNE: Thank you very much, Senators.

3 CHAIRMAN STEINBERG: Thank you very much,

4 Margaret. Keep fighting.

5 (Applause.)

6 SENATOR AANESTAD: Mr. Arbaugh, why don't you

7 come on up and get ready, and as soon as the room

8 clears, we'll get started here, and the Chair will

9 return quickly. Okay. We have Troy Arbaugh, member of

10 the Board of Parole Hearings. Welcome.

11 Do you have anybody here that you would like to

12 introduce? Family, friends?

13 MR. ARBAUGH: I have some family here.

14 SENATOR AANESTAD: Okay.

15 MR. ARBAUGH: I have my wife of 37 years,

16 Karen; our daughter Jennifer and her son Michael; our

17 oldest son James and his wife Nicole and their two

18 children Corey and Alexa; and our youngest son Thomas.

19 SENATOR AANESTAD: Welcome to the entire

20 Arbaugh family. Good to see you here.

21 MR. ARBAUGH: Not quite.

22 SENATOR AANESTAD: Have you any opening

23 statements?

24 MR. ARBAUGH: I do.

25 SENATOR AANESTAD: Let's get started.

29

1 MR. ARBAUGH: Good afternoon, Senators. Thank

2 you for the opportunity to come before you today. I

3 look forward to responding to any questions that you may

4 have regarding my qualifications for the position of

5 commissioner on the Board of Parole Hearings.

6 As with any position, I have, over time, become

7 more comfortable in my role as commissioner. I have

8 improved my skills at hearing time management,

9 questioning inmates, and evaluating the facts of each

10 case with suitability factors to arrive at this

11 decision.

12 There may exist concerns that there are

13 inconsistent results in the hearings that I chair as

14 commissioner. I believe this is a misconception. At

15 every hearing, there are competing applicants of

16 interest, each with their own personal and professional

17 opinion. Each party is heard and their perspective

18 considered while weighing relevant facts with applicable

19 law.

20 Each hearing has a life-span of its own,

21 whether there are multiple victims or next-of-kin,

22 questions and statements by district attorney

23 representatives and inmate attorneys, and/or inmate

24 statements each will be heard and considered at each

25 hearing.

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1 My role as commissioner is to allow all to have  
2 their voice while balancing the interest of efficiency  
3 and fairness.  
4 If an inmate is suitable for parole and not a  
5 present risk of danger to society or a threat to public  
6 safety, that inmate deserves a grant of parole. The  
7 alternative is also true. When an inmate remains a  
8 danger and a risk to the public, an appropriate denial  
9 length is determined by the panel.  
10 I bring to bear the necessary characteristics  
11 of integrity, thoughtful decision-making, and fairness  
12 to my work as commissioner for the Board of Parole  
13 Hearings. With your support today, I would like to  
14 continue that important work.  
15 And with that, I will answer any questions that  
16 you may have.  
17 SENATOR AANESTAD: Okay. And now that the  
18 Chair is back, we'll hand the gavel to him and start  
19 questioning.  
20 CHAIRMAN STEINBERG: Thank you. Excuse me for  
21 having to step out for just a moment.  
22 So Mr. Arbaugh has made his opening statement.  
23 Very, very good. Why don't I open it up to the other  
24 members for just a second, Senators Dutton, Cedillo,  
25 Aanestad.

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1 SENATOR AANESTAD: I think I'd rather wait to  
2 see what witnesses --  
3 CHAIRMAN STEINBERG: Well, I can begin, then,  
4 now that I've got my bearings, coming back in.  
5 Couple of things in your written response to  
6 our questions I would like to ask you about. You do  
7 mention in your written response that you have not yet  
8 observed any rehabilitation programs within the prisons,  
9 but you hope to find some time.  
10 You've been serving since last May. Is the  
11 intent to make the time sometime soon, and do you view  
12 that as an essential piece of determining suitability  
13 for parole?  
14 MR. ARBAUGH: I have taken the time, and I am  
15 sorry that I didn't visit programs earlier. I visited  
16 the -- The one that really impressed me was down in  
17 Solano.  
18 CHAIRMAN STEINBERG: So you have since you  
19 filled out --  
20 MR. ARBAUGH: Yes, I have.  
21 CHAIRMAN STEINBERG: Okay.  
22 MR. ARBAUGH: I attended the substance abuse  
23 program down in Solano, a new program and a new building  
24 set up down there for mentors, and it is co-chaired or  
25 co-sponsored by the California Substance Abuse -- the

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1 California Association of Alcohol and Substance Abuse  
2 Counselors.  
3 There were 50 members of -- inmates in that  
4 program, 42 of which were lifers, and they will be  
5 trained to mentor to other inmates. It was very  
6 professionally done. That organization actually offers  
7 paid positions to the inmates when they are released.  
8 The day I was there, there was actually one inmate that  
9 had been offered a paid position as a counselor upon  
10 release.  
11 CHAIRMAN STEINBERG: Thank you.  
12 How useful is this risk-assessment tool  
13 provided by the trained clinician in your determination  
14 of the relative level of risk for a lifer who you may  
15 parole?  
16 MR. ARBAUGH: I look at it as a tool. I read  
17 the full report. It's a lot of information in there.  
18 He kind of summarizes what's in the files before us.  
19 It's a place to look at -- The doctor looks at the  
20 insight/remorse, determines, in his opinion, the risk of  
21 the inmate. It opens the door to questions of the  
22 inmate in order to delve -- for our insight into the  
23 inmate's insight, the questions that it does raise.  
24 CHAIRMAN STEINBERG: I know we're going to  
25 hear -- There's some opposition, and maybe we should

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1 allow you to, you know, wait to respond to the  
2 opposition. Why don't we first hear from witnesses in  
3 support. The witnesses in support.  
4 Witnesses in opposition.  
5 Mr. Warren, how are you doing?  
6 MR. WARREN: Well, to put it bluntly, it's  
7 fortunate that Jewish people don't believe in hell,  
8 because as a lawyer, God's not going to let me in  
9 heaven.  
10 I had a handout that I left with the  
11 sergeant-at-arms that I hoped to be shared.  
12 My name is David Warren. I'm appearing on  
13 behalf of Taxpayers for Improving Public Safety. And if  
14 I slur a little bit, please excuse me. I'm on some new  
15 medication, and I'm slower than normal.  
16 CHAIRMAN STEINBERG: Don't worry about it.  
17 MR. WARREN: We appear here in opposition both  
18 generally and because of personal knowledge and  
19 experience. I have submitted our letter, and I would  
20 like to point out one most -- what I believe to be an  
21 egregious example of an inmate at Folsom State Prison,  
22 Mr. Paul Sandoval, who I've known for half a decade.  
23 Here's an individual who clearly has come to understand  
24 the nature of the crime, his insight into the crime. We  
25 have talked extensively over the last half decade, and

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1 yet he was denied parole but provided a three-year  
2 hearing date. Three-year hearing date indicates to me  
3 that there's a strong belief that the man has been  
4 paroled and is just simply postponing what should have  
5 been done already.

6 I fear that -- One of my greatest concerns in  
7 approving this individual is that we have repeatedly  
8 pointed out that there's a sense that the Board of  
9 Parole Hearings is here specifically to demonstrate that  
0 we are going to be tough on crime.

1 I provided you a recent editorial from the  
2 *Fresno Bee* today which points out that we have an  
3 extraordinary expense in our older and elderly inmates,  
4 and it's eating up the budget. I've provided you with  
5 two examples in my letter. Both of these are women  
6 which I knew personally, Helen Loweak, who was suffering  
7 from dementia, who was being transported three days a  
8 week for dialysis and two days a week for inhalation  
9 therapy, and, as a consequence, was costing the State of  
0 California half million dollars. She could never have  
1 been a threat to public safety and was denied release.

2 We have lost our view with the Board of Parole  
3 Hearings, and I think it's very important -- pardon me.  
4 I hope you'll read my letter.

5 CHAIRMAN STEINBERG: We'll read the letter.

35

1 Let me ask you a question, though.

2 Mr. Arbaugh specifically, 397 hearings, 34  
3 grants. That's almost 10 percent. How does that  
4 compare -- How does his performance, in your view, from  
5 your perspective, compare to other members of the board?

6 MR. WARREN: His performance is better, but  
7 that doesn't mean anything. To me, that's not a good  
8 measure.

9 Essentially what's being stated by the Board of  
0 Parole Hearings is that the State of California  
1 Department of Corrections has a 99.99 percent failure  
2 rate for rehabilitating these individuals. That is  
3 either a condemnation of the Department of Corrections,  
4 or it's a statement that there's something wrong with  
5 the determination of who should be granted parole.

6 CHAIRMAN STEINBERG: Okay. Very good. Thank  
7 you very much.

8 MR. WARREN: I'm sorry.

9 CHAIRMAN STEINBERG: That's okay. Hope you  
0 feel better.

1 MR. WARREN: Thank you.

2 CHAIRMAN STEINBERG: Okay. Any other witnesses  
3 in opposition? Sir.

4 MR. DAHLE: Members of the Committee, good  
5 afternoon. I'm David Dahle. I'm a deputy district

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1 attorney, the head of the lifer hearings division for  
2 the Los Angeles County District -- I'm sorry.

3 My name, again, is David Dahle, deputy district  
4 attorney from Los Angeles County. We are here today,  
5 unfortunately, not in support but in opposition of the  
6 confirmation for this commissioner. It is with heavy  
7 heart that I do so. It is, to my knowledge, the first  
8 time that our department has taken a position against an  
9 appointee in this area.

10 Addressing the issues of concern that our  
11 office has pertain specifically to the ability of  
12 Commissioner Arbaugh to control his proceedings, which  
13 is a significant factor.

14 At one hearing which I was present, the inmate  
15 essentially rested control of the hearing away from the  
16 commissioner, and the deputy commissioner assigned at  
17 that hearing had to take control of the proceedings and  
18 restore order so that the hearing could resume.

19 Subsequent to that, in another institution in  
20 another facility, and of even greater concern to the  
21 prosecutors in our office who do hearings, a grant of  
22 parole was given by Commissioner Arbaugh in a case in  
23 which the clinical assessment done for that particular  
24 prisoner rated the prisoner a moderate risk on one test,  
25 a low to moderate risk on another, and a medium risk of

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1 recidivism, overall a moderate risk for recidivism in  
2 the future. That decision to grant parole with that  
3 information before the panel was so beyond a reasonable  
4 decision that we were not -- could not accept that as a  
5 just and reasonable outcome for the hearing.

6 Given those circumstances, we believe that it  
7 would be inappropriate to continue to have Commissioner  
8 Arbaugh sitting, and we unfortunately must ask that you  
9 deny. Thank you.

10 CHAIRMAN STEINBERG: Thank you very much, sir.

11 Do you want to respond to the instance that the  
12 deputy district attorney just talked about, sir?

13 It's hard for us to dissect cases. We can't,  
14 you know, relitigate the cases here before us, but I'd  
15 like you to respond.

16 MR. ARBAUGH: I believe they were both early-on  
17 cases.

18 CHAIRMAN STEINBERG: Early what?

19 MR. ARBAUGH: Early on in my hearings. And I  
20 think I've gained control over those cases. I do recall  
21 a particular hearing where the DC jumped in and talked  
22 to the inmate -- talked to the inmate and the rest of us  
23 in the room.

24 CHAIRMAN STEINBERG: The DC?

25 MR. ARBAUGH: The deputy commissioner. Sorry.

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1 The deputy commissioner.  
2 CHAIRMAN STEINBERG: Sorry. I'm A-okay, but --  
3 MR. ARBAUGH: And as far as the granting -- or  
4 giving the date of the grant for the person with the  
5 risk assessment --  
6 CHAIRMAN STEINBERG: Yes, the moderate risk  
7 assessment.  
8 MR. ARBAUGH: Again, that's a tool that we use,  
9 and based on the information that we have at that  
10 hearing that is brought forward, the information in the  
11 file, that hearing at that time on that day, myself and  
12 the other panel member, the deputy commissioner, felt  
13 the person deserved a date.  
14 CHAIRMAN STEINBERG: Do you remember what the  
15 significant fact of mitigation was that had you,  
16 essentially, overcome the risk-assessment tool?  
17 MR. ARBAUGH: I do not.  
18 CHAIRMAN STEINBERG: Okay. Okay.  
19 Is there a tendency of the DAs in these  
20 hearings to try to essentially run them, take them over?  
21 Is that a point of tension between the commissioners and  
22 the district attorney, that you're in control, but they  
23 want to take some control? Is that a phenomenon?  
24 MR. ARBAUGH: I have not observed that.  
25 CHAIRMAN STEINBERG: You have not observed

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1 that. Okay.  
2 Questions from members. Okay --  
3 Go ahead, Sam. Senator Aanestad.  
4 SENATOR AANESTAD: I guess my question is more  
5 for the district attorney from Los Angeles. We're  
6 talking about out of 313 hearings, specifically  
7 referring to two, one where they disagreed with the  
8 finding, and yet what about the 228 denials? Did they  
9 disagree with any of those findings? I don't think so.  
10 Again, you know, I'm asking folks who come here  
11 to testify in support or opposition of these people to  
12 talk to us specifically about the work quality of the  
13 person that is here for a confirmation hearing and not  
14 come in with a political agenda because maybe they don't  
15 satisfy the findings that they want to have enough of.  
16 You know, in this case, I don't think the  
17 opposition has swayed me one bit. In fact, I'm a bit  
18 embarrassed at the testimony of the opposition simply  
19 because they have not been able to demonstrate, to me,  
20 anyway, any incompetence or inability to do the job.  
21 CHAIRMAN STEINBERG: I agree with most of what  
22 you just said. I might put it a little bit differently,  
23 but I agree.

24 People have the right to use the public forum  
25 here to come up and oppose or support the nominee based

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1 on philosophy, but it's our job to judge the  
2 qualification, the mindset, the objectivity of the  
3 person, and I haven't heard anything here today that  
4 makes me question that.  
5 So, is there a motion?  
6 MS. KLINGE: There are other speakers.  
7 CHAIRMAN STEINBERG: Oh, I didn't know there  
8 were other speakers. I apologize. Opposition?  
9 MS. KLINGE: Yes.  
10 CHAIRMAN STEINBERG: Of course.  
11 MS. KLINGE: We'll be brief.  
12 CHAIRMAN STEINBERG: How many?  
13 MS. KLINGE: Two -- three, I think.  
14 CHAIRMAN STEINBERG: Everybody come on up.  
15 MS. KLINGE: My name is Jill Klinge, and I'm an  
16 Alameda County district attorney. I've been a DA for 22  
17 years there, and I've handled lifer hearings for  
18 approximately three years. For my county, I'm the sole  
19 person that does them.  
20 And to respond to Senator Aanestad's comments,  
21 it's not easy for us to come here and oppose. This was  
22 a very -- a decision that was gone over time and time  
23 again, and it's not a philosophical position about our  
24 position on cases. I frankly don't look at grant rates  
25 or denial rates. I strictly look at how a hearing is

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1 conducted, and if it's a fair, impartial hearing. And  
2 the commissioner has the tools to conduct the hearing in  
3 a manner necessary to come to a just result.  
4 So it's not a philosophical belief for me that  
5 everyone should stay in prison. I've submitted cases.  
6 I believe people can be rehabilitated. I believe they  
7 deserve to get out if they've met certain criteria.  
8 The reason that I'm here today is a couple  
9 reasons. No one is going to argue that Commissioner  
10 Arbaugh is not a nice gentleman. He certainly is. But  
11 he's not effective as a commissioner.  
12 Now we've had discussions -- in fact, recently,  
13 Commissioner Arbaugh has had discussions with several  
14 DAs, including myself, because he became aware we would  
15 be opposing his confirmation. And, yes, I know he's  
16 spoken to -- that he tried to do his time management  
17 better, and I'm sure you'll hear about and have heard  
18 about people being in Avenal until 1:30 in the morning.  
19 I was in Folsom State Prison on a Friday on two morning  
20 cases. I didn't get off until 6:30 at night.  
21 Certain cases, yes, need to be lengthy, based  
22 on the information in the case. But when it's  
23 consistent that cases are taking much longer than  
24 necessary for the information to come forward, it's not  
25 only a hardship on the DAs, the inmates that have to

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1 wait to start their hearing until very late in the  
2 evening when we're all tired, the commissioners, the  
3 prison staff are required to stay, and an inability to  
4 manage the time is extremely important.

5 Due to recent case law, it's become very  
6 important to determine the veracity of an inmate when  
7 he's claiming that he has insight into the crime and  
8 remorse. The commissioner takes the lead on questioning  
9 the inmate on those things. And Commissioner Arbaugh,  
0 in my experience, and I've appeared in front of him  
1 several times, numerous times, doesn't have the innate  
2 ability -- the ability to effectively question an inmate  
3 and get to the core of the matter. You can tell when  
4 people instinctually can do it, or they can learn to do  
5 it over time. Unfortunately, I just have not seen that.  
6 A lot of law enforcement officials don't work in the  
7 capacity of interviewing people repeatedly, and that's a  
8 skill that you either pretty much have or don't have.

9 I'm also concerned that his recent  
0 acknowledgments of the issues he's had, which he  
1 presented in his opening statement, that he's spoken to  
2 us about have only come very recently, when they've been  
3 mentioned to him over the last year. And in the past  
4 times, it's been more of a defensive response, "I don't  
5 have any issues," and now, just recently, he's saying,

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1 "Oh, I'm going to address those issues. I wouldn't have  
2 made those decisions before that I made had I known what  
3 I know now." So I have a concern about that and the  
4 timing of that.

5 I've recently had a decision, and, granted, I  
6 don't -- you know, I don't look to grants and denials,  
7 like I said -- where an inmate in the 2007 hearing had  
8 become extremely agitated with the commissioner that had  
9 done that hearing, and it was all over the record. And  
0 one of the things you look at is can they maintain their  
1 anger-management issues. This was a series of robbery/  
2 kidnaps. And in the next hearing, Commissioner Arbaugh,  
3 which it was recent, in the last few months, because it  
4 was -- ended up going abunk (phonetic) basically just  
5 said, "Did you get agitated in 2007?"

6 "Yeah, I did."

7 "Did you feel like you had the right to get  
8 agitated?"

9 "Well, under the circumstances, I would," and  
0 left it at that. There was no -- you know, no further  
1 follow-up and no -- he did not address it in his  
2 decision at all as to any anger-management issues that  
3 that would have exemplified, which it did.

4 So that's just a small example, and I'm not  
5 speaking on a philosophical basis. This is a basis of a

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1 DA that's interested in public safety, and certain  
2 people are right for a job, and certain people aren't.  
3 It doesn't mean that I'm philosophically opposed. I'm a  
4 strong law-enforcement background.

5 So with that -- That's just my comments.

6 CHAIRMAN STEINBERG: Well, thank you.

7 MR. ZARATE: Good afternoon, Mr. Chairman,  
8 Members of the Committee. My name is Francisco Pancho,  
9 P-a-n-c-h-o, Zarate, Z-a-r-a-t-e. I represent the  
10 California District Attorneys Association. I'm a member  
11 of the board of directors as well as the lifer  
12 committee.

13 I want to make certain that you have received  
14 the letter that this does oppose the confirmation of  
15 Mr. Arbaugh for commissioner of the Board of Parole  
16 Hearings.

17 As you have seen from the letter, as well as  
18 the speakers, the concern is with the ability to  
19 effectively and efficiently conduct an administrative  
20 hearing and focus in on the issues. Conducting a  
21 hearing that's concluded at 1:30 in the morning is  
22 obviously unacceptable.

23 SENATOR AANESTAD: Can I interrupt for a  
24 second? I have been in this building recently past 1:30  
25 many, many times, and are you saying the person who ran

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1 the Senate at the time is incompetent because we were  
2 here at 1:30?

3 CHAIRMAN STEINBERG: Hey, better not say that.

4 SENATOR AANESTAD: Maybe we were doing our job  
5 and it took longer. That entire argument, the length of  
6 the hearing, is absolutely out the window if we're  
7 getting to the truth of the matter. And sometimes you  
8 can't do it in two hours, and maybe it takes four hours,  
9 or maybe it takes four days being shut up in the  
10 building here to get the job done. So don't use that  
11 argument anymore.

12 MR. ZARATE: The problem is: What kind of  
13 judgment does a person exercise at that time?

14 Again, on behalf of the District Attorneys  
15 Association that represents the 57 counties, as well as  
16 the members of the lifer committee whose sole purpose is  
17 to address the issues of lifer hearings, as well as  
18 public safety, opposes confirmation. Thank you.

19 CHAIRMAN STEINBERG: Next.

20 MS. WARD: My name is Christine Ward. I'm the  
21 executive director of the Crime Victims Action Alliance.  
22 And I apologize you do not have a letter. I was out on  
23 a family emergency, so I'm appearing before you today.

24 We are opposed to Commissioner Arbaugh's  
25 confirmation as well for many of the reasons that the

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1 DAs have already brought up, so I won't go into great  
2 detail. But we are concerned with Mr. Arbaugh's ability  
3 to assess the suitability of an inmate for release. And  
4 we do follow numbers. We do follow what's happening at  
5 the parole board, but unlike other crime victims'  
6 organizations, we actually do believe that there are  
7 inmates who are absolutely suitable for being released  
8 back into our society. We just want to make sure that  
9 those coming out are ready and will be safe,  
10 contributing members to society. Thank you very much.

11 CHAIRMAN STEINBERG: Have you observed the  
12 commissioner conduct a hearing?

13 MS. WARD: No, sir. I've pulled transcripts.

14 CHAIRMAN STEINBERG: Do you have concern about  
15 his conclusions or about his ability to actually conduct  
16 a thorough hearing?

17 MS. WARD: It's more the conduction of the  
18 hearing, not so much the conclusion of the hearing.  
19 Certainly, I'm not going to agree with all of his  
20 decisions, but it's more so the process that occurs.

21 I'm not an attorney. I'm a victim advocate.  
22 So I'm simply looking at it from the viewpoint of a  
23 victim advocate.

24 CHAIRMAN STEINBERG: Can you give an example of  
25 what you read in the transcript or series of transcripts

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1 that troubled you?

2 MS. WARD: Sir, I would be more than happy to  
3 follow up with that. Unfortunately, like I said, I was  
4 on a family emergency --

5 CHAIRMAN STEINBERG: I'm sorry. I'm not trying  
6 to push you. I'm just trying to gain some insight into  
7 what the problem is.

8 MS. WARD: It's the length of the hearing, the  
9 concern over the risk assessment and not taking all of  
10 the information from the risk assessment, in our belief,  
11 into as much consideration as we believe. And, again,  
12 this is an opinion of our organization only.

13 CHAIRMAN STEINBERG: Let me ask you one  
14 question about the organization, and I probably should  
15 have asked this of others as well. But where a  
16 psychological risk assessment comes back low, do you  
17 believe that that ought to be at least close to a  
18 definitive statement or conclusion about the inmate's  
19 suitability for parole?

20 In other words, it goes both ways. We heard  
21 some complaint where the risk assessment is high, the  
22 gentleman is not giving it enough weight. What's your  
23 view when the risk assessment comes in low?

24 MS. WARD: That it should absolutely be weighed  
25 the same as if it comes in high. It's a factor.

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1 CHAIRMAN STEINBERG: A factor. But you  
2 wouldn't automatically support an inmate's parole just  
3 because the risk-assessment tool came in low?

4 MS. WARD: I would say that everything -- the  
5 short answer, no, taking everything into consideration  
6 in that hearing. There's so much more that goes on in  
7 that hearing than just the risk assessment as a factor.

8 CHAIRMAN STEINBERG: Okay. Thank you very much  
9 for coming and testifying.

10 Anybody else? I mean, this is -- Here's what  
11 I'd like to do: I'd like to move the nominee here, but  
12 I would ask -- I would like the staff to at least take a  
13 second look at some of these complaints before we  
14 actually take this up on the floor, I would, just to  
15 again review some of the transcripts and look at the  
16 issue of how the hearings are conducted.

17 It doesn't bother me that a hearing would go to  
18 1:30 in the morning. Like Senator Aanestad said,  
19 sometimes the public process is a little bit messy, and  
20 sometimes when there's a lot at stake for people and for  
21 society -- I mean, these are big decisions here, right,  
22 for all parties involved. Maybe it is better to take a  
23 little bit more time than not. So I'm not sure that's  
24 definitive.

25 However, if there's this pattern of just not

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1 being able to conduct a hearing, and that has sort of  
2 continued up to the present, I would kind of like to  
3 know that, and it leaves me just a tiny bit uncertain  
4 about whether that's the case.

5 Maybe you can address it, Mr. Arbaugh. You  
6 alluded to the fact that initially, you were sort of new  
7 at conducting the hearings. How do you assess, now,  
8 your ability to actually conduct a thorough hearing?

9 SENATOR CEDILLO: Before that, if we're going  
10 to ask that question, I think we also need to ask the  
11 inverse, because the other question is, perhaps, the  
12 handling of the hearings is the appropriate way.  
13 There's jeopardy, and maybe it's a -- due process  
14 requires what's due, and maybe this is what is due,  
15 given what's the jeopardy.

16 These are lifers. These are now, given the new  
17 law, something that would require at least some sense  
18 that those who are before him have had the full  
19 opportunity for the expression of their appeal. I  
20 didn't hear anybody say that "We didn't have an  
21 opportunity," or that "We only heard one side, and we  
22 didn't hear the other side." There's not a qualitative  
23 distinction on the results. No one seems to have an  
24 issue with the results, so it appears at this moment  
25 that some people seem to be upset that it's not,

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perhaps, more perfunctory, and not more ministerial, right?

And I would say to you, having done hearings like you, that it seems to be the minimum for someone whose life is in jeopardy that the process may require that. So we have to ask the other question and find out from the other side are people concerned that they're not getting their day in court, and particularly now that the law has changed, that they're not getting their day in court, that their issues aren't being fully heard, and at the time not one party came up and said "Well, there was some advantage to a party or a point of view versus another."

CHAIRMAN STEINBERG: That's true.

SENATOR CEDILLO: They lamented the time involved in affording the due process.

CHAIRMAN STEINBERG: I certainly have not come to a negative conclusion. I want to make that clear. I have not come to a negative conclusion. It's just -- A couple of the witnesses, I just think, raised the concern.

I'm ready to move the nomination to the floor. I just want to maybe look at a couple of the transcripts between now and the floor session just to make sure. That's just me.

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SENATOR CEDILLO: But it's -- Again, I just would look at -- We need to compare apples to apples. We need to get a sense, because this may really open up questions, and perhaps the other hearings may be too ministerial, given the jeopardy that's involved here and given the rights of the victims, given the rights of the person whose time and liberties are in jeopardy. Maybe the others may be -- The results are the same. No one can lament it, the results. Perhaps that may be a process we want to engage in.

CHAIRMAN STEINBERG: Mr. Arbaugh, what do you say about your own conduct -- Not conduct -- your own experience in conducting these important hearings.

MR. ARBAUGH: It's been a learning experience. Time-wise they're down to mid-average, is what I've been told. Two, two and a half hours is what they are as far as the time goes. But some hearings have gone four, four and a half hours, based on the information.

Most of my career as a law enforcement officer was involved in investigation. Most of those were with crimes against people and interviews of people. I've also done interviews with -- in workers' comp fraud cases after I retired from the sheriff's office. Again, interview techniques that I have learned and used. And I think I can read people pretty well, sitting across

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from them. And the hearings that I've had, the deputy commissioners that have been with me, especially early on, were seasoned deputy commissioners. Most of them had been commissioners and brought up. There was never a split decision. It is a joint effort in reaching a decision based on the information that is before us.

The only time there's been any great discussion is the length of time of denial, whether it be two years or one year, or two years or three years, but there has never been a split decision as far as parole.

CHAIRMAN STEINBERG: Can you respond to the specific case referenced by the Alameda County deputy district attorney where she alleged that in reviewing the conduct of an inmate back in the 2007 case who had exhibited all kinds of anger issues in the hearing itself, that you didn't adequately question the inmate about that?

MR. ARBAUGH: No, I could not. No. I can't recall that specifically.

CHAIRMAN STEINBERG: Okay. That may be one that I want to -- that I want to look at.

Okay. I'm ready to move the motion. Ready to move the nominee.

MS. BROWN: Senator Cedillo.

SENATOR CEDILLO: Aye.

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MS. BROWN: Cedillo aye.

Dutton. Oropeza. Aanestad.

SENATOR AANESTAD: Aye.

MS. BROWN: Aanestad aye.

Steinberg.

CHAIRMAN STEINBERG: Aye.

MS. BROWN: Steinberg aye.

CHAIRMAN STEINBERG: All right. Thank you very much. Appreciate you being here and answering all of our questions.

(Applause.)

CHAIRMAN STEINBERG: (To the reporter): Are you okay?

THE REPORTER: Five minutes.

CHAIRMAN STEINBERG: We'll take a five-minute break.

(Recess taken.)

CHAIRMAN STEINBERG: All right. The Committee will come back to order here.

I'd like to welcome Henry J. Aguilar, who is up for confirmation as commissioner of the Juvenile Parole Board.

Welcome to you, sir.

MR. AGUILAR: Thank you.

CHAIRMAN STEINBERG: And I would like to give

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1 you the opportunity to introduce any family members or  
2 special guests in the audience.  
3 MR. AGUILAR: You bet. Chuck Supple, the  
4 executive officer of the Juvenile Parole Board; fellow  
5 commissioner, Rob Cameron --  
6 CHAIRMAN STEINBERG: Welcome.  
7 MR. AGUILAR: -- Rick Oules, who is probably in  
8 the men's room. He will be in shortly. And that's --  
9 Oh, and Janine Smalley from the Juvenile Parole Board as  
10 well.  
11 CHAIRMAN STEINBERG: Welcome to all of you.  
12 All right. If you would like to make a very  
13 brief opening statement, we will ask you a few  
14 questions, and we will move through this.  
15 MR. AGUILAR: Chairman Steinberg, Senators and  
16 staff members, and invited guests. Good afternoon.  
17 It's a pleasure and an honor to be here today. My name  
18 is Henry Aguilar, and I would like to thank you for the  
19 opportunity to come before you today seeking your  
20 support in my confirmation as a commissioner of the  
21 Juvenile Parole Board.  
22 My goal as commissioner is to protect the  
23 public and serve the residents of California. During my  
24 tenure, I intend to help the youth open their eyes to  
25 new possibilities by sharing my personal examples and

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1 experiences. My past employment with the Department of  
2 Social Services, law enforcement, afforded occasional  
3 nursing and psychiatric admissions, and as a member of  
4 the California Council on Criminal Justice has provided  
5 me with the training, the experience in helping a  
6 diverse population.  
7 Throughout my life, I have assisted others by  
8 being a youth mentor, a fellowship counselor, and  
9 athletic coach. As a commissioner, I will be able to  
10 continue my passion of community service to help the  
11 lives of our youth. In the last ten and a half months,  
12 I found this job to be challenging, rewarding, and  
13 fulfilling all at the same time.  
14 My greatest accomplishment was raising my three  
15 children who have blessed me and my wife of 36 years  
16 with six healthy grandchildren. I'm still getting used  
17 to being called "Grandpa."  
18 I thank you again for this opportunity, and  
19 I'll be happy to answer any questions.  
20 CHAIRMAN STEINBERG: Thank you again for being  
21 here.  
22 Let me begin with a threshold question here.  
23 Do you think the DJJ works for the purpose that it's  
24 intended, to help protect the public safety but  
25 rehabilitate juvenile offenders to avoid being part of

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1 the adult correctional system eventually?  
2 MR. AGUILAR: Yes, I do, sir, and I base that  
3 on -- The good part of my job is when I go on Friday to  
4 do what they call calendar at the local offices where we  
5 conduct discharges. And I always take pride and extra  
6 time when I see an honorable discharge, where we  
7 actually discharge a parolee who has done very well out  
8 in the community who is employed, going to school, and  
9 who is no longer a threat to public safety.  
10 CHAIRMAN STEINBERG: Okay. One of the things  
11 we were pleased about in reviewing your application was  
12 the fact that you have really observed a number of rehab  
13 programs and, you know, your commitment to vocational  
14 training as the key to independence and rehabilitation.  
15 What role do you play, if at all, in advising  
16 DJJ on the quality of its programs? What are you doing  
17 to be an advocate for what it is you have seen.  
18 MR. AGUILAR: I try to advance programs and  
19 services that work -- that I see work. I think aligning  
20 more with vocational colleges, trade colleges -- The  
21 bottom line when these kids get out is that they have  
22 very minimal employability skills. School is another  
23 factor I try to tell the executive officer as well as  
24 the director of DJJ, that we ought to be aligning  
25 ourselves a little bit more with higher education,

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1 getting these kids into these colleges. Luckily, over  
2 at Heman G. Stark, we do have a local university  
3 partnering up with them, but we need more of those  
4 relationships to get the kids educated and then a job  
5 when they get out. Otherwise, they return back to doing  
6 what they were doing.  
7 CHAIRMAN STEINBERG: Talk, if you would for a  
8 moment, about the criteria you used at times to award  
9 sentence, the so-called add-on provisions of the law.  
10 What -- Tell me what the context of that is.  
11 That means if you paroled a ward and they come back or  
12 if they misbehave within the institution, you can add  
13 time onto their sentence. What's your criteria?  
14 MR. AGUILAR: Well, I am being currently  
15 trained on parole revocation where you can do the time  
16 adds. They issued a new procedure to do that, and I'm  
17 being currently trained on that. But we look at the  
18 performance of the behaviors, what they did and how they  
19 did it, their amenability to any rehabilitative efforts.  
20 Back in the old system, they had what they  
21 called corrective action plans. Under the new system,  
22 they don't. They have a table of sanctions and how much  
23 time you can give them.  
24 You take the whole case in totality and see if  
25 this ward is amenable to the treatment, training, and

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1 education offered by DJJ.  
2 CHAIRMAN STEINBERG: Other questions from  
3 Members. Questions from Members.  
4 A little -- Then I'll ask another, if nobody  
5 else has one.  
6 A little bit more detail on what you observe in  
7 terms of the quality of DJJ's education programs, what  
8 we can do, as a legislature, to help the department  
9 improve successful educational outcomes for the wards.  
0 MR. AGUILAR: When they come before the  
1 juvenile administrative committee, we usually have a  
2 representative of the school in these hearings, as well  
3 as a representative of the mental health component. And  
4 we've talked about that with the school folks. How can  
5 we get these kids either their GEDs or their high-school  
6 diplomas before they get out of here? Perhaps putting  
7 computers in the school so they can access and go at  
8 their own rate as far as how they can go online and get  
9 some of those classes completed and/or find other  
0 methods to get these kids interested in education.  
1 Unfortunately, and I've said this many times in  
2 the hearings, that you can lead that horse to the water,  
3 but if it doesn't want to drink it, it won't drink.  
4 CHAIRMAN STEINBERG: Talk about mental health  
5 for a moment. What percentage of the wards that you  
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observe have significant mental health issues, and are  
they being adequately addressed, in your opinion?  
MR. AGUILAR: The ones that I usually see are  
at the northern -- excuse me -- at the southern clinic  
there at Norwalk, and they have adequate resources, I  
think, at this point, to -- because of the population  
decreasing, to be seen by the treatment team and  
assessed, anger management, trauma, whatever -- a lot  
of -- all this is organic. If they are accessible to  
their meds, they're under the treatment of the  
psychiatrist, and I -- Again, I've visited the clinic in  
the back and see, actually, group therapy.  
And, again, what happens with the ones that are  
seriously mentally ill, it's their ability to understand  
they're ill as well as taking the medication that's  
prescribed to them.  
CHAIRMAN STEINBERG: Senator Dutton.  
SENATOR DUTTON: Maybe I will ask a couple  
questions here.  
There's been some changes with regards to the  
juvenile program and so forth because of some of the  
changes that took place. Right now, my understanding is  
that a lot of the juvenile offenders that used to be in  
the system are now actually going through county  
probation, or they've been assigned. They're considered

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1 to be nonviolent.  
2 MR. AGUILAR: That's correct.  
3 SENATOR DUTTON: The ones that you're dealing  
4 with are considered to be, for lack of any better words,  
5 the worst of the worst. These are young people that  
6 have pretty substantial problems, I would assume, right?  
7 MR. AGUILAR: Yes, sir.  
8 SENATOR DUTTON: There was a Hoover study,  
9 because there was concern the cost has gone up to  
10 house -- to almost \$250,000 per year to house a  
11 juvenile, and there's been some work done, according to  
12 the Little Hoover Commission, that's suggested maybe  
13 we're better off switching everything over to counties,  
14 including the worst of the worst, because they might be  
15 in better shape to continue to provide the necessary  
16 services and so forth. Do you have an opinion about  
17 that one way or the other?  
18 MR. AGUILAR: I think the numbers are so high,  
19 and that when you have a decreasing population, you make  
20 the simple division of 2,000 wards into how much you're  
21 actually spending. That's why you get the 250,000;  
22 whereas, when the population was 10,000, it wouldn't be  
23 that high.  
24 I would say that because we get the worst of  
25 the worst, so to speak, DJJ can handle these people,  
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1 have been doing it for many, many years, and they do  
2 have their high success rate in dealing with that type  
3 of individual. What I mean by that is the staff in the  
4 institutions, the programs that they have, et cetera. I  
5 haven't visited any county facilities with the advent of  
6 them taking over those other wards in the counties.  
7 SENATOR DUTTON: Okay. So you don't feel we  
8 would be able to provide at least the same program,  
9 level of service and so forth. You don't think there  
10 would be any cost savings being the county is already  
11 set up to handle some of this? You don't think  
12 future --  
13 Unless you're planning to warehouse these youth  
14 offenders, we're still trying to do rehabilitation. You  
15 don't think the counties are capable of providing that  
16 service for less than 250,000 per year per juvenile?  
17 MR. AGUILAR: My understanding, given all the  
18 stuff in the paper, is that they're having the same  
19 issues that DJJ is, race riots in the juvenile camps,  
20 et cetera, et cetera. So I really can't give you a  
21 qualified opinion on that, because I don't know.  
22 SENATOR DUTTON: Okay.  
23 CHAIRMAN STEINBERG: Witnesses in support.  
24 Very briefly, if you would.  
25 MR. OULES: Very briefly.

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1 CHAIRMAN STEINBERG: Thank you, sir.  
2 MR. OULES: Good afternoon. My name is Rick  
3 Oules, O-u-l-e-s. I'm the retired director of the  
4 division of law enforcement for the California  
5 Department of Justice, and a 31-year veteran of law  
6 enforcement in California.  
7 I've known and worked with Hank Aguilar for the  
8 past ten years. I worked closely with him when he was  
9 president of the Latino Peace Officer's Association, as  
10 a fellow member of the California Council on Criminal  
11 Justice, and as a hearing officer for the Department of  
12 Justice internal personnel board.  
13 Mr. Aguilar served as a third-party neutral  
14 hearing officer for a case involving the revocation of a  
15 concealed weapon permit for a retired employee.  
16 Mr. Aguilar was agreed upon by labor and management as  
17 someone who would be fair and impartial to both sides.  
18 Both sides recognized Mr. Aguilar's outstanding  
19 reputation for honesty, fairness, and as an individual  
20 who maintains the very highest ethical standards.  
21 Although Hank eventually ruled against  
22 management, against the side that I was on, I completely  
23 respected his decision, how he came to that decision,  
24 and how he articulated that decision. He evenly weighed  
25 the evidence that was submitted, evaluated witness

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1 testimony fairly, and based his judgment solely on the  
2 facts that were discussed in the hearing.  
3 Even though we may have disagreed, I would not  
4 hesitate to have Mr. Aguilar participate in any future  
5 panel as a third-party neutral; and, in fact, I would  
6 strongly recommend him as a fair and impartial hearing  
7 officer. I worked with Mr. Aguilar closely, and we  
8 reviewed reports, and he became prepared, he asked  
9 detailed questions, and it was a pleasure to work with  
10 him.  
11 Knowing Mr. Aguilar as I do and having worked  
12 with him as a commissioner and as a hearing officer, I  
13 know that he'll be an outstanding selection for the  
14 juvenile parole board. Mr. Aguilar is honest, fair, and  
15 impartial, and he's dedicated to serving the people of  
16 California.  
17 Hank Aguilar is a good man, and he'll serve  
18 this board with distinction. Thank you.  
19 CHAIRMAN STEINBERG: Thank you very much.  
20 Any other witnesses in support?  
21 Any witnesses in opposition?  
22 A motion from the members.  
23 I support your nomination. You sound fair,  
24 hard working, dedicated, and I appreciate any effort you  
25 have taken to look at the program side, which is

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1 essential to success for anyone you may parole.  
2 MR. AGUILAR: Thank you, sir.  
3 CHAIRMAN STEINBERG: Thank you.  
4 Please call the roll.  
5 MS. BROWN: Senator Cedillo.  
6 Dutton.  
7 SENATOR DUTTON: Aye.  
8 MS. BROWN: Dutton aye.  
9 Oropeza. Aanestad.  
10 SENATOR AANESTAD: Aye.  
11 MS. BROWN: Aanestad aye.  
12 Steinberg.  
13 CHAIRMAN STEINBERG: Aye.  
14 MS. BROWN: Steinberg aye.  
15 CHAIRMAN STEINBERG: Keep the roll open for  
16 Senator Cedillo.  
17 You have sufficient votes to head to the Senate  
18 floor.  
19 MR. AGUILAR: Thank you very much.  
20 CHAIRMAN STEINBERG: Thank you very much.  
21 Okay. Can I have a motion on item four,  
22 please, 4D and E. So moved by Senator Aanestad.  
23 MS. BROWN: Senator Cedillo.  
24 Dutton.  
25 SENATOR DUTTON: Aye.

65

1 MS. BROWN: Dutton aye.  
2 Oropeza. Aanestad.  
3 SENATOR AANESTAD: Aye.  
4 MS. BROWN: Aanestad aye.  
5 Steinberg.  
6 CHAIRMAN STEINBERG: Aye.  
7 MS. BROWN: Steinberg aye.  
8 CHAIRMAN STEINBERG: Three nothing. Again,  
9 sufficient vote.  
10 Keep the roll open for Senator Cedillo.  
11 (Thereupon, the Senate Rules Committee hearing  
12 adjourned at 3:16 p.m.)  
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I, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of March, 2009.

Ina C. LeBlanc

INA C. LeBLANC  
CSR No. 6713

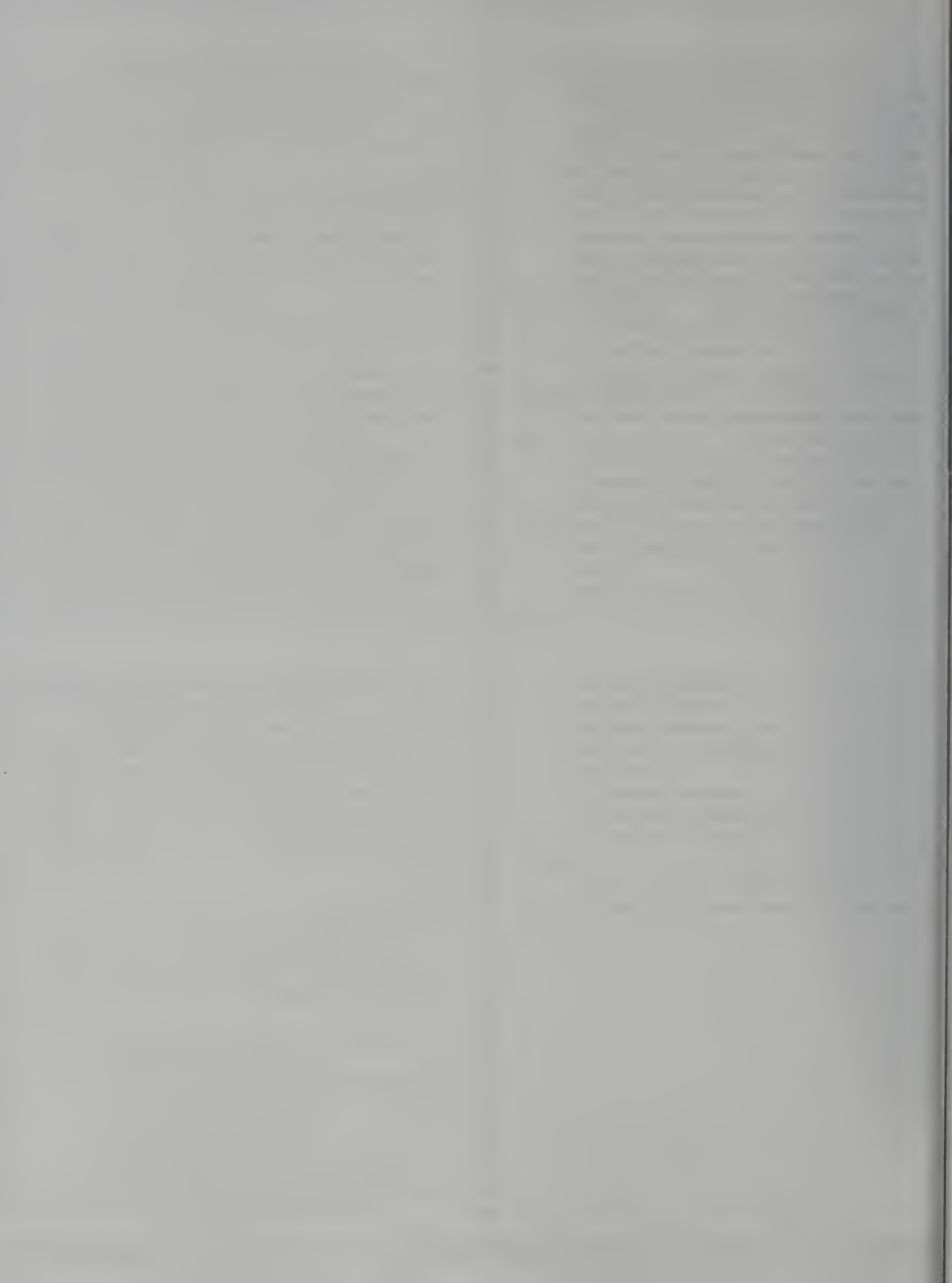
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APPENDIX

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## Statement of Goals

- 1. Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the CSU Board of Trustees. How will you measure your success?**

I am honored to serve as a member of the CSU Board of Trustees. Together with my colleagues, my role is to govern a diverse and complex twenty-three campus system. My overall objective is to be a good steward of the largest university system in the United States. It is important to protect the quality of the University during this time of economic recession. I bring unique attributes to my service as a Trustee. My experience as a high school principal, school superintendent, Chair of the California Commission on Teacher Credentialing, and education advisor to two governors provides me with a rich background to draw upon as I assess issues that come before me as a Trustee. My career in public education reflects a strong commitment to student achievement and a passion for creating a public school system that lives up to its promise for everyday Californians. As a Trustee, I want to provide CSU students with an excellent and memorable college experience. I consider faculty and staff to be my partners in this work.

My goals as a CSU Trustee are to:

- Promote system-wide expansion of online degrees
- Improve K-12 student achievement by preparing effective teachers
- Increase and advance African American student enrollment and achievement within the CSU

### Goals & Measures

GOALS	MEASURES
Promote system-wide expansion of online degrees	Review enrollment reports of students in online courses and degree programs. Monitor the number of online degree programs the system offers.
Improve K-12 student achievement by preparing effective teachers	Review reports produced as a result of Carnegie Foundation funded research on impact of CSU credential program grads on student achievement.
Increase and advance African American student enrollment and achievement within the CSU.	Review enrollment trends and graduation rates of African American students.

Senate Rules Committee

FEB 02 2009

Appointments

**2. *How will you evaluate the extent to which the CSU system is succeeding in its mission? What yardsticks are most important to you as you make this determination?***

In May 2008, the CSU Board of Trustees adopted a new strategic plan called *Access to Excellence: A New System-wide Strategic Plan and a Process for Implementation*. I voted in favor of the plan. It gives the system specific action items to help us accomplish the University's mission, includes implementation plans and provides a focus for the next ten years. I particularly like the University's boldness in taking responsibility for closing achievement gaps. We have committed to reduce the achievement gap by 50 percent over the next ten years.

At the time of adoption, the board directed staff through a resolution to develop indicators, metrics and timetables to achieve strategic plan outcomes. We also established our expectation that the Chancellor would return to the board and report periodically on the system's progress towards achieving the goals of the strategic plan. Here's an excerpt from the May 2008 agenda that describes what the plan includes:

*Access to Excellence* identifies three major domains within which action in the next ten years is viewed as urgent: (1) increasing student access and success; (2) meeting state needs for economic and civic development, through continued investment in applied research and meeting workforce and other societal needs; and (3) sustaining institutional excellence through investments in faculty, innovation in teaching, and better access to student research and service.

Fourth, as an approach to action and progress within these important domains, *Access to Excellence* identifies two important categories of goals and necessary actions. The first category identifies eight goals to which the CSU will unilaterally commit:

- Reduce existing achievement gaps
- Plan for faculty turnover and invest in faculty excellence
- Plan for staff and administrative succession and professional growth
- Improve public accountability for learning results
- Expand student outreach
- Enhance student opportunities for "active learning"
- Enhance opportunities for global awareness
- Act on the CSU's responsibility to meet post-baccalaureate needs, including those of working professionals

The second category includes two overarching objectives that the CSU sees as priorities for public policy attention:

- Public policy to grow expectations for degree attainment
- Strengthened cross-sector (P-16) strategies and structures



## Governing Board Oversight

### ***3. What role does the board play in reviewing and approving executive compensation policies? Do you believe the board should reassess these policies? Why or why not?***

Prior to my appointment as a Trustee, the Board recently updated its compensation policy through a resolution adopted on September 17, 2007. Among other things, the policy establishes the intent of the Board to:

- Attract motivate, and retain highly qualified individuals as faculty, staff administrators, and executives whose knowledge, experience, and contributions advance the University's mission.
- Compensate CSU employees in a manner that is fair, reasonable, competitive and fiscally prudent.
- Attain parity with the average of the 20 comparison institutions for CSU faculty and executives by 2010-2011.

The policy is consistent with the Board's role to approve all salary actions for executives. It is important to note that the language of the resolution expresses the "intent" and "goals" of the Board. This policy is flexible enough to adapt to changes in the fiscal environment in which the University is operating. For example, on January 9, 2009, Chancellor Reed announced cost saving measures taken due to the state's current fiscal crisis. They include a hiring freeze on all positions except those essential to the operation of the university, a salary freeze for all vice president level positions and above including presidents' and vice chancellors' salaries and the chancellor's salary effective immediately.

As a new Trustee, it is my observation that the University is constantly in the process of reviewing its practices as it relates to executive compensation. The Board's long-standing committee for university faculty and personnel reviews and approves recommendations on appropriate compensation levels for executives that are then ratified by the full board.

### ***4. What is the CSU board doing to reevaluate its overall capacity to oversee and hold the system accountable on matters of compensation and other key issues?***

The Board of Trustees created an ad hoc committee in 2007 to evaluate the recommendations the State Auditor released in its critical November 6, 2007 report about the University's compensation practices. The committee made specific suggestions to address the issues that were raised by the State Auditor which were adopted by the Board in January 2008. The Chancellor is monitoring implementation and issued a report on progress to the State Auditor on November 4, 2008.

**5. *What meaningful information enables board members and the public to fairly evaluate compensation proposals?***

The Board receives a total compensation report, which includes benefits and an annual presidents' compensation study. Both are posted to the CSU website under a special section on executive compensation. ([http://www.calstate.edu/exec\\_comp/](http://www.calstate.edu/exec_comp/)) The report is compiled by Mercer Human Resource Consulting, a management consulting firm recognized nationally for its expertise in compensation. I find the reports a useful tool to put CSU compensation proposals in context of a market of 20 comparison universities used in California Postsecondary Education Commission (CPEC) studies from 1995-2006.

**6. *Do you think the CSU has adhered to the auditor's recommendations that CSU committed to adopt? If not, why not?***

Yes, as I mentioned in my earlier response to question #4, the CSU adopted a formal response to the State Auditor's recommendations in January 2008, after having convened an adhoc committee to advise the Board on the matter. The Board's resolution includes the action plan that the CSU will implement as a result of the Auditor's recommendations. Chancellor Reed recently updated the State Auditor in detail on the actions the University has taken in a November 4, 2008 letter. The letter provides:

- specific responses to Auditor's recommendations,
- discussion of considerations for implementation,
- adhoc committee recommendations
- six month status report
- twelve month status report

**7. *When the university receives no funding for COLAs (as is the case in 2008-09), the university must shift funds from other sources in order to cover any COLA that it chooses to grant. Where did the money for the 2008 salary increases come from? Do you think this money was best spent on executive salary increases?***

The Board only voted to approve one pay increase for a CSU executive in 2008. An interim vice chancellor was promoted to vice chancellor and received an increase.

Effective January 9, 2009, as a cost saving measure due to the budget crisis, CSU instituted a salary freeze for all vice president level positions and above including presidents' and vice chancellors' salaries and the chancellor's salary.

## College Affordability

- 8. *The board has the authority to establish, adjust and abolish student fees. How does the board ensure that it is accountable to the public each time it increases fees? As a board member, what are the key factors you will consider when deciding whether to approve student fee increases.***

The CSU negotiated a Higher Education Compact—an agreement between Governor Schwarzenegger, the University of California, and the California State University 2005-06 through 2010-11. The Compact is an important vehicle through which the CSU ensures it is accountable to the public each time it increases student fees. In addition, the University makes its decisions about student fees in public meetings and communicates extensively with the public through the media and other means to notify parents, students and families of student fee increases before they happen.

The Compact is consistent with the principles that I share that all student fee increases meet the test of being moderate, predictable, and affordable in terms of the state's fiscal environment, CSU comparison institutions, and Board policy.

It is important to note that while the Compact has not been funded, its guidelines on how we think about student fee increases are still instructive. As you know, among other things, the Compact provides that:

- Student fees for the CSU will continue to be on average lower than comparable universities across the country.
- To create stability in tuition hikes and give families the ability to plan ahead, fee increases will not exceed 10 percent on average in the first three years of the Compact.

Below is some language directly from the Higher Education Compact that I find useful in thinking about the CSU's commitment to affordability and access. These principles are particularly important against the backdrop of an ever-growing fiscal crisis we confront as a state.

The student fee policy contained in this Compact assumes that UC and CSU will retain student fee revenue without a corresponding reduction in state funds which, together with state funds provided each year, will be used to help meet their budgetary needs as well as help the segments recover from the current fiscal crisis.

- ***Undergraduate Students.*** The Administration and segments agree that it is important to implement a more stable fee policy that recognizes the desire to keep student fee increases reasonable, while also providing adequate funding for cost increases for student fee-funded programs and preserving the quality of the universities. The Administration has proposed a long-term student fee policy



that calls for increases in student fees based on the rise in California per capita personal income. However, in years in which the UC and CSU governing boards determine, based on fee policies developed by their governing boards and in consultation with the Administration, that fiscal circumstances require increases that exceed the rate of growth in per capita personal income, consistent with the Governor's proposed student fee policy, UC and CSU may decide that fee increases of up to 10 percent are necessary to provide sufficient funding for programs and to preserve quality. However, in years that the UC and CSU governing boards believe fiscal circumstances may require increases that exceed the Administration's per-capita personal income policy, the segments shall consult with the Administration about those compelling circumstances. After consultation, UC and CSU may decide that fee increases of up to 10 percent are necessary to provide sufficient funding for programs and to preserve quality. UC and CSU will develop their annual budget plans based on the assumption that student fees will increase by 14 percent for 2004-05, and by 8 percent for 2005-06 and for 2006-07. Thus, undergraduate fees will have increased by 10 percent per year on average over the three-year period, consistent with the intent of the Governor's proposed student fee policy. This fee policy is contingent on the provision of resources for the basic budget at the level called for in this Compact. It also is contingent on no further erosion of the segments' base budget, and it assumes that revenue from student fees will remain with UC and CSU, and will not be used to offset reductions in State support.

It continues to be the priority of the State and of UC and CSU to provide financial aid to ensure students are not denied the opportunity for a higher education because of financial barriers. An amount equivalent to no less than 20 percent and no more than 33 percent of the revenue generated from student fee increases is to be used to provide aid to needy students who qualify for financial aid, based on the federal methodology for determining need.

***9. California lacks a consistent fee policy for postsecondary education. During tight budget years, student fees often increase quite steeply. Do you believe the state should develop a long-term state funding and student fee policy? If so, what role should the board have in developing such a policy? To what extent should the Governor and Legislature be involved in CSU's decision about fees?***

The Governor and the Legislature are involved in CSU fee decisions through the budget process. The CSU Board of Trustees has had a consistent fee policy in place since 1993. It calls for the state to share the preponderance of a students' education costs; requires fee rate increase to be gradual, moderate, and predictable; requires a portion of the fee revenue increase to be set aside for student grant aid; and recognizes differential costs of graduate/post-baccalaureate education.

The state had a statutory fee policy in the past and the Legislature chose to abandon it. Even when a statutory policy was in place, the state's fiscal environment typically drove fee policy.

***10. What is the CSU board doing to evaluate the affordability of a CSU education, beyond just the cost of student fees? Has the board examined the increase costs of textbooks and whether more state university grant aid should be available to help students cover this expense and other costs of attending college? To what extent does CSU take into account opportunities for federal financial aid, such as Pell Grants and Hope tax credits?***

As a system, we ensure enrollment growth funding from the state covers all costs related to student instruction, including student services, academic support, plant operations, and institutional administrative costs requirements related to student access (ie: financial aid billing costs, information technology, etc.)

As for the cost of textbooks, the CSU is on the cutting edge nationally, in reducing textbook costs by creating a Digital Marketplace. The Digital Marketplace is a one-stop shop for faculty and students to find academic curriculum—from textbooks to online tutorials—at a lower price and with greater choices. CSU's Digital Marketplace was recognized as a critical strategy for addressing textbook affordability issues in the 2007 Congressional Report, "Turning the Page." (<http://www.ed.gov/about/bdscomm/list/acsfa/turnthepage.pdf>) The report highlights CSU's Digital Marketplace as a long-term solution—an innovation that uses technology to change how textbooks are produced and distributed in a way that reduces costs and also provides consumers with free academic content. These are the types of strategies I am interested in promoting as a Trustee—the types that seek innovation to change the paradigm for how students receive academic content and results in reduce costs.

You asked, "to what extent CSU takes into account opportunities for federal financial aid, such as Pell Grants and Hope tax credits?" Here's what I have learned from my staff on this topic. CSU students must complete the Free Application for Federal Student Aid (FAFSA) to apply for financial aid. This application is the basis for determining eligibility for federal, state, and institutional aid programs, including the State University Grant (SUG). Students are then typically awarded a package of financial aid from the various programs for which they are eligible (Pell and other federal grants, SUG or Cal grant, student loans, work-study, etc.)

Hope tax credits are not a direct form of assistance to the student for current expenses (it may be claimed on their federal tax return after the calendar year in which the expenses were incurred.) Hope tax credits are therefore not a factor or considered in determining student financial aid awards.



***11. Affordability is affected by how much it costs CSU to provide education services. What steps has and should CSU take to hold down these costs?***

I agree that affordability is affected by how much it costs CSU to provide education services. While there are many strategies I could highlight that effect the cost of education at CSU, I want to focus on one about which I am particularly passionate. I believe the CSU should move very aggressively into offering online degrees to provide a college education anytime, anywhere to our students. I raised this topic in the course of the Board's November 19, 2008 discussion about system-wide impaction and was encouraged by my colleagues' interest. I anticipate that we will hear an information item regarding online degrees at our next meeting. I believe by increasing our online degree offerings, the system could gain long-term cost savings in facilities associated with the traditional brick-and-mortar university. We also have the potential to extend our reach as a university. The impact of CSU entering the online degree space could be profound for students. We are the largest university system in the country. Our full participation in online education could change the norms for how a university education is delivered. The result could be to open up access to a college education in ways that are beyond our current imagination. This is important now more than ever as millions of Americans who are out-of-work due to a failing economy seek to retrain. I'm sure that what I have suggested will require investment in new technology, professional development, etc. However, I suspect the long-term gains for students and the system would make the investment worthwhile.

**Enrollment Growth**

***12. Potentially, CSU may curtail enrollment by up to 10,000 students throughout the system. Who are the students that you expect to lose? Will certain parts of the state be more adversely affected than others?***

The CSU continues to use the enrollment priorities assigned it by California Education Code 66202. Among other things, the statute says, it is the intent of the Legislature that the following categories be followed . . . in the following numerical order, for the purpose of enrollment planning and admission priority:

- 1) Continuing undergraduate students in good standing
- 2) California Community College students who have met all requirements for transfer
- 3) California residents entering at the freshman or sophomore levels

With regard to regions of the state, the campuses most likely to curtail enrollment will be those that were over-enrolled in 2007-08. These include San Francisco, Chico, Northridge, Fullerton, San Jose and Long Beach. I understand that modest



curtailment may also occur at San Marcos and Channel Islands. The impact would therefore be felt across the state—in other words not localized to any single region.

***13. For the last several years, CSU has been engaged in efforts to reach out to students who have historically not been part of higher education in California. What impact will the system-wide impaction have on these students? What steps is CSU taking to inform underserved communities and the high schools serving these students of the changes in application deadlines along with the potential for differing admissions criteria among the CSU campuses.***

Through the last several admissions cycles, the CSU and its campuses have encouraged prospective students as well as our school and community college partners to make early application for admission a priority. This has been accomplished via the World Wide Web, in CSU counselors conferences as well as press released and our Road to College bus tour. This year, I will participate in a very special outreach program called Super Sunday where CSU leaders will visit 100 African American churches throughout the state to talk directly to African American students and families about college and the CSU. Applications to CSU from historically underrepresented populations including African American and Latino high school seniors have increased. My staff has informed me that early indicators are showing that earlier closing of application cycles has not been accompanied by any decrease in the diversity of the CSU applicant pool. This is something I am watching closely as a Trustee.

***14. How will system-wide impaction affect specialty programs, such as architecture at Cal Poly San Luis Obispo, or nursing, science and engineering programs?***

Specialty programs such as architecture, nursing, science, and engineering have not been adversely impacted by system-wide impaction and closing the application period early. In some cases, like in Fullerton, nursing and engineering programs have been kept open after other majors have closed. Other campuses such as Long Beach have permitted applications to engineering and nursing by persons who already hold bachelor's degrees in other fields. The number of enrollment spaces in the CSU's programs in architecture (San Luis Obispo and Pomona) is static, and there is always an over-supply of qualified applicants. Therefore, such programs are not likely to be subject to enrollment curtailment.

***15. CSU's latest Compact Performance Measures report shows that almost 3,400 full-time equivalent students (FTES) were used up last year in the form of "excess course units" –that is, students taking courses beyond 120 percent of the minimum number required for graduation. As another example, more than one-third of regularly admitted freshman***

***never graduate from CSU. What steps should CSU take more efficient use of its enrollment funding?***

If I understand the concern correctly, the issue being raised here is that 3,400 students of 450,000 (less than 1%) have taken more courses than required for graduation. This data does not lead me to the conclusion that CSU uses enrollment funding inefficiently. I can think of a number of examples that would justify why a student would take more courses than required for graduation—pursuing a double major or minor to be more competitive in the workforce, pursuing a highly technical course of study in engineering or science that requires more coursework. Having said this, I am aware that CSU has a graduation initiative in which the campuses are charged to identify places where the system can do an even better job.

The second issue raised about graduation rates is an important concern and I am interested in addressing it from the standpoint of the University meeting its mission as an education institution. We received a report as recently as our November 18-19, 2008 Board of Trustees meeting on this topic. My observation is that the system examines itself with a critical eye as it relates to public accountability for learning results, including graduations rates. In our new strategic plan—*Access to Excellence*, we state our commitment to using accountability data to improve our performance:

*“The CSU commits to strengthen its accountability to the public for learning results, through implementation of programs like the Voluntary System of Accountability. It will be important to use findings from the accountability measure to inform curriculum and program improvements at the campus level.”*

***16. What can the CSU board do to ensure that its teacher preparation programs are preparing teachers capable of meeting the challenges of high-need schools, core subject matter areas, geographic regions, and special needs programs?***

Examples of what the CSU Board can do are as follows:

- Reinforce the priority on teacher recruitment and preparation within the CSU system. For more than twenty years, CSU has had a Teacher Recruitment Project on each campus, and programs of this nature must be continued despite fiscal challenges.
- Recognize successful programs like the CSU Mathematics and Science Teacher Initiative, a system-wide effort through which the numbers of math and science teachers prepared by CSU has increased 68% over the past four years, and the production of middle school Algebra teachers has more than tripled.

- Encourage collaborations with groups like Just for the Kids, already a close partner of the CSU, to identify effective models for serving high need schools and overcoming the achievement gap.
- Underscore the value of partnerships with school districts, particularly high need districts, in implementing successful strategies to advance achievement of all students, including those with special needs, in all regions of the state.
- Ensure measurement of progress on a continuing basis including measures that assess our graduates' impact on student achievement.

### Teacher Preparation and Algebra Readiness

***17. How does the board monitor the effectiveness of the early assessment program and whether it has helped increase the graduation rates of CSU students needing remediation in basic skills? Do you have empirical data? Are you satisfied with how the policy is being implemented?***

In collaboration with the California Department of Education and the State Board of Education, the California State University developed the EAP to provide students, their families, and high schools the opportunity to assess 11<sup>th</sup> grade student readiness for college-level English and mathematics, i.e. skills that students who choose either to enter college or the workforce directly out of high school will need to be successful.

The EAP consists of questions from the 11<sup>th</sup> grade California Standards Test (CST) in English-Language Arts, Algebra II, and Summative High School Mathematics, plus fifteen additional multiple-choice questions and a written essay.

The spring, 2008 administration was the fifth year that the EAP was available to all students enrolled in 11<sup>th</sup> grade who were eligible to take the 11<sup>th</sup> grade CSTs in English and the CSTs in Algebra II and Summative High School Mathematics.

All 11<sup>th</sup> grade students are encouraged to participate in the EAP because the EAP provides valuable information to high schools about student readiness for college level English and mathematics, and the EAP report enables the student, family, and high school to identify the student's need for additional preparation in English and mathematics while still enrolled in high school.

As appropriate, working with high school counselors and teachers, students have the opportunity to enroll in mathematics classes in 12<sup>th</sup> grade or participate in web-based mathematics interactive tutorials. They may also enroll in English classes that include additional instruction in expository reading and writing, essential skills that



high school teachers have identified as necessary for success not only in English, but across the curriculum.

While the EAP questions are voluntary for 11<sup>th</sup> grade students, the response to the EAP has been overwhelming.

Nearly 352,943 high school juniors have received an “early signal” (79 percent participation rate) of their readiness for college English. This represents a significant increase from 2007 when 342,348 juniors opted to take the voluntary assessment. Of these 352,943 students, 17 percent were assessed as college-ready.

Approximately 147,885 (70 percent of all high school juniors eligible to take the California Standards Test in math) opted to complete the CSU’s voluntary EAP. Of these students, 55 percent were judged to be ready for college-level work in mathematics. This represents an increase in the number of students taking the test (from 141,648 in 2007).

The EAP not only provides an opportunity to high schools to identify students who need additional work in English and mathematics in 12<sup>th</sup> grade, but it also provides an additional benefit to students who attend any of the California State University’s twenty-three campuses.

Students who are determined to be college-ready on the basis of EAP are exempt from taking the California State University’s placement tests in English and mathematics and move directly into baccalaureate-level classes upon enrollment.

Students who are not college-ready at the end of 11<sup>th</sup> grade have the opportunity to strengthen their skills in 12<sup>th</sup> grade, which will help to increase their mastery of the subjects and ability to demonstrate proficiency on the California State University’s English and mathematics placement tests.

Responding to requests from the California Department of Education and high schools, the California State University, working with college and high school English faculty and reading experts, developed a curriculum for a 12<sup>th</sup> grade Expository Reading and Writing Course that may be used by the high school as a full, one-year course or from which modules may be integrated into existing 12<sup>th</sup> grade English classes.

The Expository Reading and Writing Course is aligned with the English-Language Arts content standards and consists of lessons based on non-fiction and fiction texts. It may fulfill the “B” requirement of the UC/CSU (a-g) college preparatory course pattern.

In 2007-08, each CSU campus promoted the Early Assessment Program within its assigned service areas. CSU redirected \$3.9 million in academic outreach funds and \$1.2 million (total of \$5.1 million) from other CSU resources to cover the costs of the 11<sup>th</sup> grade assessment and scoring, outreach to all California high schools, development and implementation of the 12<sup>th</sup> grade Expository Reading and Writing Course, and teacher professional development.

The board monitors the effectiveness of EAP by receiving reports on the outcomes of remediation each year. There is not yet any data on whether it affects graduation rates. This is part of a research agenda that the University is coordinating.

Empirical data indicate that remedial students that attain proficiency during their first year exhibit graduation rates that are on par with the graduation rates for students that are Math/English proficient at entry.

***18. How does the board evaluate which types of outreach programs are most effective in helping disadvantaged students enroll in college? Is the board kept informed of students' remediation needs once enrolled at CSU and whether they are being met appropriately?***

The Board and the Legislature receives an annual outreach report from the CSU. The CSU measures college preparedness of eligible first-time freshmen through annual and biennial reports. The Board's Committee on Educational Policy recently reviewed the CSU Accountability Process –Fifth Biennial Report. It includes data on how our remediation programs are impacting student preparedness. The report states that:

*The CSU recognizes the problem that large numbers of eligible first-time freshmen are not fully prepared to enroll in entry-level college mathematics and English composition. To ensure that these students would be able to make timely and appropriate progress to degree, the CSU made it a high priority to provide them with pre-baccalaureate instruction and other opportunities to attain full proficiency within their first year. The percentage of freshman prepared for college level English increased slightly—from 53 percent to 55 percent—between fall 1998 and fall 2007. In contrast, the percentage of freshmen prepared for college-level math increased from 46 percent to 63 percent over the same ten-year period.*

The report goes on to say that “the deeper and broader issue underlying this challenge is serious gap that exists between high school and students’ successful completion of college prep coursework and their actual readiness for college-level instruction.” It is in the context of this observation that it is important to note that in our latest strategic plan adopted in May 2009, the Board committed to halving existing achievement gaps within the next ten years. This is a bold and significant commitment.

***19. How do you evaluate the quality of coordination between CSU outreach programs and K-12 schools to determine if it provides the best mix of outreach interventions? Is this an appropriate area for the board to weigh in?***

Staff reports to the Board on our outreach programs and K-12 relationships. Given the aggressive goal the CSU has to halve the achievement gap in the next ten years, it is important for the CSU to closely examine our relationships and partnerships with the K-12 community.

***20. High school students who want to pursue a college prep curriculum in California must devote nearly their entire schedule to completing A-G coursework, leaving little room for career tech or other electives. How does the board monitor this issue and weigh in? Do you believe the current requirements are the best ones, or have you considered easing them even slightly as some have suggested by requiring A-F?***

The Board just received a presentation on career technical education (CTE) at our January 2009 meeting. This is the vehicle through which we monitor and weigh-in on the issue.

In my opinion, high school students who want to pursue a college prep curriculum in California can also participate in CTE. The two are not mutually exclusive and can be combined very effectively to give students an engaging high school experience. At theme high schools across California, core classes are often taught in the context of a career field, plus students have substantial opportunity to take elective courses in CTE.

High school students must take 22 courses to graduate. CSU and UC require completion of 15 courses of specified coursework to become eligible for admission. Students must also complete P.E. (2 courses) and Health (1/2 course) requirements for high school graduation. Adding the CSU/UC eligibility requirements with additional high school graduation requirements, students must complete 17.5 courses, leaving 4.5 courses for CTE. The typical CTE path expects students to take one CTE course per year, in other words, 4 courses during their high school careers. Thus, it is manageable for a student to meet the requirements for CSU eligibility, high school graduation requirements, and take CTE courses.

**Title IX**

***21. Title IX violations at Fresno State have resulted in very costly settlements. How is your board monitoring the situation to assure compliance with***



***the law? Are you satisfied that the problems at Fresno State have been addressed? How do you monitor Title IX activities at other campuses?***

In 1993, the CSU and California National Organization for Women (Cal NOW) entered into a consent decree on gender equity in women's athletics. The final report under the consent decree was for 1998-99, but the CSU has continued to issue the self-monitoring report on a voluntary basis.

A council of campus presidents monitor campuses compliance with Title IX and athletic equity status at all campuses. In cases where campuses are unable to demonstrate compliance, they are required to offer a remedial plan.

The Board of Trustees now receives an annual report on the compliance with the law and effort by the campus to meet equal opportunity in athletics for women.

### **CSU Response to Workforce Needs**

***22. What is the board doing to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students to enter high-growth fields?***

The Board and the CSU have a wide variety of initiatives throughout the system to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students in high growth fields. There are many examples that could be given. Here are some specific ones that I find particularly interesting:

- One specific example of CSU's broad commitment to analyzing the state's long-term workforce needs and acting on recommendations from industry is its creation of more than 15 Professional Science Masters' (PSM) Programs in high-growth disciplines such as biotechnology, biostatistics, medical product development, and environmental sciences. These highly applied programs, which combine science and business coursework and hands-on, industry-based internships, clearly illustrate CSU's capacity to rapidly design and implement degree programs in high-growth fields that are key to California's economic competitiveness and growth. The biotechnology programs, which comprise the larger group of PSMs, have been developed in association with CSU's Program for Education and Research in Biotechnology (CSUPERB).
- Preparing CSU students for entry to high-growth, high-demand fields in health professions is another area in which CSU is responding rapidly to both challenging health care emphases, and changes in the level of training required for many health professions careers. This year, with support from the California Endowment, the CSU is convening a series of meetings between CSU, UC, and CCC health professions faculty and staff, and health

care industry representatives, to develop action plans to increase the numbers and diversity of CSU students entering health professions careers. The action plan deriving from these meetings will set forward specific directions to broaden the health professions pipeline, and will be presented to CSU leadership for review within the next year.

- The CSU recently launched the first apprenticeship program of the Governor's Engineering Initiative through a partnership between CSULA, a community college, the California Division of Apprenticeship Standards and Stellar Microelectronics. The program is designed specifically to be veteran-friendly. More such programs are currently in the development stage.
- The CSU offers many outstanding programs in hospitality, tourism, and natural resources management. System-wide, the CSU produces 76 percent of the state's total degrees in tourism and natural resources. This includes 100 percent of the state's degrees in such disciplines as natural resources management and policy, wildlife and land management, and parks, recreation and leisure studies.

***23. Should the board help campuses strengthen their capacity to respond more quickly to student demand for enrollment in programs that train them to enter high-growth fields? Conversely, should the board respond to declines in enrollment in programs that are no longer in demand because of changing workforce needs? What is the appropriate role for the board?***

The Board reviews and approves or declines new degree programs that are responsive to workforce demands, and provides the same service when programs are slated for discontinuation because demands have fallen off.

The Board delegated to presidents the authority to approve experimental pilot degree programs as well as new options, concentrations, and special emphases, which all provide education and training in fields experiencing a high demand for training the labor force. The presidents' authority allows the campuses to respond quickly to changing workforce and industry needs.

As described above in response to question 22, Professional Science Master's (PSM) programs are one example of a workforce-sensitive initiative in which campuses were authorized to implement a variation on certain master's programs that would give students training in the sciences and in management.

***24. How does the CSU propose to align the opportunities for California's green economy with educational and career development programs at its***

***campuses? Is this an issue area on which your board provides guidance?  
If so, how?***

In our Board-approved strategic plan, *Access to Excellence*, CSU identifies sustainability issues, including the design and implementation of new degree programs as a priority for the system. The Board has provided guidance through the adoption of its strategic plan.



Date		Time		Location		Remarks	
1911	10/1	10:00	11:00	1000	1000	1000	1000
1911	10/2	10:00	11:00	1000	1000	1000	1000
1911	10/3	10:00	11:00	1000	1000	1000	1000
1911	10/4	10:00	11:00	1000	1000	1000	1000
1911	10/5	10:00	11:00	1000	1000	1000	1000
1911	10/6	10:00	11:00	1000	1000	1000	1000
1911	10/7	10:00	11:00	1000	1000	1000	1000
1911	10/8	10:00	11:00	1000	1000	1000	1000
1911	10/9	10:00	11:00	1000	1000	1000	1000
1911	10/10	10:00	11:00	1000	1000	1000	1000
1911	10/11	10:00	11:00	1000	1000	1000	1000
1911	10/12	10:00	11:00	1000	1000	1000	1000
1911	10/13	10:00	11:00	1000	1000	1000	1000
1911	10/14	10:00	11:00	1000	1000	1000	1000
1911	10/15	10:00	11:00	1000	1000	1000	1000
1911	10/16	10:00	11:00	1000	1000	1000	1000
1911	10/17	10:00	11:00	1000	1000	1000	1000
1911	10/18	10:00	11:00	1000	1000	1000	1000
1911	10/19	10:00	11:00	1000	1000	1000	1000
1911	10/20	10:00	11:00	1000	1000	1000	1000
1911	10/21	10:00	11:00	1000	1000	1000	1000
1911	10/22	10:00	11:00	1000	1000	1000	1000
1911	10/23	10:00	11:00	1000	1000	1000	1000
1911	10/24	10:00	11:00	1000	1000	1000	1000
1911	10/25	10:00	11:00	1000	1000	1000	1000
1911	10/26	10:00	11:00	1000	1000	1000	1000
1911	10/27	10:00	11:00	1000	1000	1000	1000
1911	10/28	10:00	11:00	1000	1000	1000	1000
1911	10/29	10:00	11:00	1000	1000	1000	1000
1911	10/30	10:00	11:00	1000	1000	1000	1000
1911	10/31	10:00	11:00	1000	1000	1000	1000

Senate Confirmation  
Troy E Arbaugh, Commissioner  
Board of Parole Hearings  
Responses to Senate Rules Committee Questions  
February 27, 2009

**Statement of Goals**

*BPH decides whether to parole life-term inmates and has responsibility for parole revocation decisions. Members hold hearings at prisons throughout the state and have responsibility for determining whether life-term inmates are fit for release.*

- 1. *What are your goals and objectives as a member of BPH? What do you hope to accomplish during your tenure? How will you measure your success as a board member?***

My goals and objectives as a member of Board of Parole Hearings (BPH) are to serve the public and enhance public safety, in other words, protect the public. I accomplish this by evaluating the prisoners that come before me at parole suitability hearings, using the tools provided – laws, rules, policy and training, to ensure that the prisoner does not pose an unreasonable risk to public safety if they are recommended for parole. As the hearing officer, there are laws, rules, regulations and policy that need to be followed and I endeavor to be fair, impartial and consistent in following these. I conduct myself professionally through fair, honest, and ethical behavior. I have the courage to do what is right, even when it is not the popular thing to do. I accept responsibility for my actions and decisions as well as their consequences. I measure success by ensuring that the hearings I preside over are conducted in a fair, non-discriminatory, impartial manner, following the applicable laws and policy.

- 2. *What lessons, if any, from your former position as Nevada County Sheriff do you consider especially helpful in carrying out your current duties, and how do you apply them on a day-to-day basis?***

During my career with the Sheriff's Office I learned and used many skills that I put to use as a Commissioner, to include decision making, insight and interview techniques. I have been involved in the investigation of several horrific crimes, therefore when I read and listen to the accounts of the crimes that have been committed by those sitting across the table from me at a hearing, I am not shocked or in disbelief. Although many of the acts committed by the inmates are appalling and horrific, I am able to move beyond just "the crime" and look at the person across from me and consider all of the parole suitability factors in making a decision. Much of the training and education that I had while working in law enforcement dealt specifically with interview techniques, such as detection and deception, which has been particularly useful during my hearings.

**Senate Rules Committee**

FEB 27 2009

**Appointments**

**3. Do you believe that an inmate convicted with an indeterminate life sentence can be successfully rehabilitated and then safely returned to society? Please explain how you have come to your conclusion and what measures you use to assist with your analysis.**

I do believe that some convicted inmates with indeterminate life sentences can be successfully rehabilitated and safely returned to society. I have met a few that have done just that.

I also believe that there are some "lifers" that may not rehabilitate and should not ever be returned to society. I say this based on the horrific nature of their crime(s), lack of institutional adjustment to include programming, serious disciplinary behavior, failure to upgrade vocationally or educationally, lack of insight and remorse, and unwillingness or inability to change.

I have read the book *When Prisoners Come Home – Parole and Prisoner Reentry*, by Joan Petersilia and found it to be enlightening. The author looks at how the current system (in 2003) is failing, explores prisoner reentry and offers her opinion as to solutions to prepare inmates for release and reduce recidivism, all while keeping public safety in mind. The author goes into some detail in explaining how success in preparing inmates for return to society and reducing recidivism is based on the collaborative effort of all the stakeholders.

**Training**

*The 2005 law that created BPH required that within 60 days of appointment and annually thereafter commissioners and deputy commissioners undergo a minimum of 40 hours of training.*

**4. Is your training adequate, or do you have recommendations for improvement?**

The training I received was adequate. I also believe there is always more to learn, especially in a profession where there seems to be constant change. The training has been, and needs to be ongoing to keep up with the changes.

**5. In the training, what factors are you told are most important in weighing whether an inmate should be paroled?**

I learned that all of the factors concerning parole suitability/unsuitability in Title 15, Section 2402, need to be considered and weighed in determining whether or not an



inmate is ready to be considered for parole. As a Commissioner sitting on a panel with a Deputy Commissioner, we together determine what weight to give each factor.

**6. *Please describe training related to Proposition 9, including the rights of victims at hearings.***

We received training on the new denial length scheme, the "clear and convincing evidence" standard and the victims/victims-next-of-kin's rights.

Proposition 9 did not alter the fundamental suitability analysis used during hearings. Penal Code (PC) section 3041 remains unchanged by Proposition 9. A panel still goes through the same analysis, including "Lawrence" and "Shaputis," which require that denials be based upon a finding of current risk to the public.

The changes that were made to PC section 3041.5 as a result of Proposition 9 were covered in detail during our training during the week of December 8, 2008.

The "victim" is now any victim of the inmate, not just the victim of the life crime (commitment offense). The victim, next of kin, all members of victim's family (not just immediate family) and two representatives can appear to express their views about the prisoner and the case. The Life Panel must consider the entire and uninterrupted statements of the victim, representative, etc. and allow them to adequately and reasonably express their views regarding the inmate and the inmate's crime(s).

**Programs and Consistency**

*Prisons have a wide variety of academic and vocational programs as well as self-help offerings such as Alcoholics Anonymous. CDCR has struggled to ensure that programs are standardized from prison to prison. At the same time, commissioners may recommend an inmate enroll in a particular program to better prepare himself or herself for life outside of prison.*

**7. *What should the Legislature expect from commissioners regarding a consistent format for lifer hearings? Should all of the commissioners and deputy commissioners weigh the various factors in a consistent manner? For example, what should be the appropriate emphasis on the facts of the inmate's original crime?***

Lifer hearings should follow the format wherein commitment case factors are reviewed and considered. The inmate's pre-commitment factors (social history, including gang activity, criminal history, etc.) need to be closely examined. Post-commitment factors including disciplinary, programming, education endeavors, psychological assessments and/or treatment, etc. have to be evaluated as well. The inmate needs to have viable

parole plans. The closing statements by the attorneys, the inmate and victim(s) or victim's next of kin should also be considered with the caveat that any of those statements may not be wholly factual and should not be considered as such.

Each hearing is and should be treated as a new hearing. As far as each panel member weighing the various factors in a consistent manner, that is difficult. So much information is before the commissioners and can be presented in such varying fashion (affect, emphasis, theatrical, etc) by the inmate and/or the attorneys that the same thing could be said at two different hearings and resulting in different interpretations and in different outcomes.

**8. *How do you learn about educational, vocational, or self-help programs in state prisons? Which programs have you observed and when? If you have been unable to observe a particular program, how do you know if it is or is not effective? Please explain.***

We have been provided an Institutional Profile as to what in the way of academic, vocational, substance abuse, religious and other programming is offered at each of the institutions. The plan is to have the list updated on a regular basis. I also ask the Deputy Commissioners, Institutional staff and the inmates what programs are available at the various institutions.

I have not yet been able to observe any specific programs but anticipate doing so in the next several weeks. I have observed the effectiveness of programming through the prisoner's testimony. Most of the time it is very obvious during the questions, answers and presentations at the hearing whether the prisoner took the programming "to heart" or is just "regurgitating" what he/she thinks the panel wants to hear.

**9. *As the department moves to focus academic and vocational programs on inmates with three years or less to serve on their sentences, have you been informed how life-term inmates will receive the programming you recommend for them to qualify for release?***

BPH has received presentations and information from the Department of Corrections and Rehabilitation (CDCR) indicating that Programming for life-term inmates will not decrease and will remain at current levels of service. I am aware of the programming that is available at Solano and Avenal, the two institutions where I conduct the majority of my hearings.



### **Proposition 9—Victims Rights and Protection Act**

*An inmate with an indeterminate life sentence is required to receive an initial hearing one year prior to the inmate's minimum eligible parole date. Until now, subsequent hearings have occurred between one and five years apart for murder convictions, and between one and two years apart for non-murder convictions. With the passage of Proposition 9 on the November 2008 election ballot, these intervals have been dramatically changed and there are no one-year hearings. Under the new law, the time between hearings would be extended to between three and fifteen years, with "emphasis on the requirement to show clear and convincing evidence" the inmate is eligible for release sooner, according to Martin Hoshino, the BPH executive officer. Inmates, however, could periodically ask that the board advance the hearing date. And a board official said inmates can request a one-year postponement of their hearing. Another key change in the law allows victims, their relatives, and their representatives to testify at hearings of life-term inmates.*

**10. What changes in hearings do you foresee as a result of passage of Proposition 9? How do you believe they will impact the board's workload? How is your training being adjusted to factor in Proposition 9?**

There are and will be legal challenges that alter the requirements under the law. Shortly after Proposition 9 passed, there seemed to be an initial increase in requests for a waiver at scheduled hearings. I'm not certain, but the inmates and/or their attorneys may have been seeking a delay just to see how the legal challenges to Marcy's Law will "shake out".

As stated previously, we received training in December 2008, regarding implementation of Proposition 9. This training covered the new denial length scheme, the 'clear and convincing evidence' standard, and the victims/victims next of kin rights.

**11. Are inmates requesting a waiver but are refused because they have failed to meet the request deadline of 45 days before the hearing? How are those waivers impacting the board's workload?**

I have had several inmates (or their attorney) request a waiver at their hearing after the 45-day deadline has passed as provided in Title 15, section 2253 (b). A few have met the criteria per section 2253 (request must be reasonable and the prisoner must show "good cause" for the late request) and those requests have been considered and granted by the panel, but many have not as they did not meet the criteria.

The few waivers granted at hearing reduce the panel's workload the week of the hearing. Pre-hearing waivers which are granted permit another case to "backfill" into



the now vacant slot. When new cases are inserted into the hearing calendar, the panel's weekly hearing schedule does not decrease.

**12. *If the board denies parole, what criteria are used for determining how many years until the next hearing? How were you trained regarding this issue? Are there written criteria that prescribe what the length of a denial should be?***

If there is clear and convincing evidence regarding the suitability factors found in Title 15 Section 2402, showing that, upon considering public and victim's safety, the prisoner doesn't need more than 10 years of further incarceration, then there is no need to give a 15 year denial and the panel can consider a 10 year denial.

The denial period is 10 years unless there is clear and convincing evidence showing that, upon considering public and victim's safety, the prisoner doesn't need more than 7 years of further incarceration.

Seven, five or three year denial may be issued when the inmate needs more time in prison but not more than seven years.

We received classroom training, handouts and information on how to apply our discretion to determine the length of the denial until the next scheduled hearing. This decision is left to the discretion of each panel in weighing and considering each of the suitability factors.

*Proposition 9 significantly expands rights of victims, their family members, and some others to testify at hearings for life-term inmates.*

**13. *In your experience, are more victims or their family members testifying? How has the board been able to comply with the new notification requirements? How have these changes impacted your proceedings and workload?***

I personally have not seen much of an increase in the number of victims or their family members attending the hearings. However, the new 90-day notices became effective in December 2008, and will not be fully implemented until March 2009. I do see where it might lead to lengthier hearings, but so far there has not been an impact on the hearings that I have conducted.

The Board has been working with CDCR and Office of Victim and Survivor Services and is providing the required notices to the victims and the victims' next of kin via the use of the BPH website.

### **Psychological Evaluations**

*The packet of materials available to the hearing panel traditionally includes a psychological evaluation of the inmate. The timeliness and quality of the evaluation has been criticized in the past by all parties. The historic lack of clear BPH policy regarding the appropriate interval between evaluations has been discussed regularly by the Rules Committee. The absence of a "current" psychological evaluation is often the reason for a hearing postponement, though under current policy it is supposed to be done every three years.*

*Effective January 1, 2009, as part of its effort to reduce the backlog of lifer hearings, BPH introduced a new strategy. A new psychological evaluation, called a Comprehensive Risk Assessment (CRA), will be implemented and will be valid for five years. A secondary report, known as a Subsequent Risk Assessment, will be conducted as an update for hearings held prior to the five-year expiration of the CRA. Reports completed prior to January 1, 2009, will remain valid for three years from their completion date or until used in a hearing resulting in a decision.*

**14. BPH policy on psychological assessments seems to be evolving. Please explain the current policy and whether you expect further fine tuning in the coming months.**

As stated above, the Comprehensive Risk Assessment (CRA) will be valid for five years. A secondary report, known as a Subsequent Risk Assessment, will be conducted as an update for hearings held prior to the five-year expiration of the CRA. Reports completed prior to January 1, 2009, will remain valid for three years from their completion date or until used in a hearing resulting in a decision. I have been made aware that historically there was an issue with the assessments and the reports used at the hearings. However, since July (when I started conducting hearings), I have had very few postponements related to an issue with a psychological report.

**15. What is your understanding of how recent or how old an inmate's psychological evaluation can be for it to be a relevant and useful tool in the lifer hearing process?**

As of January 1, 2009, existing reports will be considered valid for three years. The new reports (CRA) will be valid for five years from the date of completion. Thereafter, and prior to each subsequent Lifer Suitability Hearing, an addendum, called a Subsequent Risk Assessment, will be completed and provided to the hearing panel, if a hearing is scheduled prior to the expiration of the CRA (five years).

**16. How have you been trained regarding the role a psychological evaluation should play in your decision regarding parole suitability? How do you**

***incorporate this tool into your final decision? If a clinician describes an inmate as a moderate risk for violence, does that automatically disqualify him or her from parole?***

I use the psychological report to gather information and create questions for the inmate to respond to at the hearing. I then compare what I learn from the inmate's answers with the other information I have reviewed in the documents before me. The panel considers all information in determining the inmate's current risk to public safety. A moderate risk assessment for violence does not necessarily disqualify an inmate from receiving a parole date. A psychological report is a tool to help the panel determine the mental state of the prisoner. The psychological report is just one of many factors considered at a hearing. It provides a clinician's opinion as to the inmates' potential risk for future violence at the time of the evaluation. It is not a substitution for the panel's determination as to insight, remorse, mental state or attitude towards the crime.

***17. Do you believe the risk assessment information contained in the psychological evaluation is useful to you in making a decision? How will the new assessment be more effective?***

I consider the psychological report and risk assessments a very valuable tool in my decision making process. It is used to assist the life panel in making a determination of a prisoner's mental state, including the clinician's opinion of the inmate's potential for future violence.

The CRA will foster more consistent and accurate evaluations by the various clinicians and provide a standardization of the psychological reports. The assessment includes an evaluation of the prisoner's remorse, insight, and an exploration of the commitment offense, as well as the need for additional institutional programming.



# Lifer Hearing Results ~ Commissioner Summary

February 1, 2009 to February 28, 2009

Hearing Totals*	36	40	23	33	39	35	32	38	36	44	24	36	95	511
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## Summary of Suitability Hearing Results per Commissioner

	Anderson	Arbuthnot	Biggers	Bryson	Chronos	Doyle	Drummond	Garner	Gillingham	Kare	Mitchell	Priznich	BPH HQ	Total
Suitability Hrg Total	35	40	23	33	39	35	32	38	35	44	23	36	95	508
Grants	5	2	1	2	5	1	3	2	3	0	0	5	0	29
Denials	20	25	13	19	25	17	13	22	18	30	13	17	0	232
Stipulations	3	5	4	6	2	4	8	2	8	8	6	10	0	66
Waivers	3	3	3	4	1	4	1	5	1	2	1	1	36	65
Postponements	4	5	2	2	6	9	7	5	4	4	3	2	59	112
Continuances	0	0	0	0	0	0	0	2	0	0	0	1	0	3
Split	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Cancellations	0	0	0	0	0	0	0	0	0	0	0	0	0	0

## Denial Length Analysis per Commissioner (Sum of Denials and Stipulations)

Subtotal (Deny+Stip)	23	30	17	25	27	21	21	24	26	38	19	27	0	298
3 years	0	18	7	3	18	12	12	11	14	26	11	20	0	156
5 years	10	0	2	4	0	2	1	0	0	10	0	2	0	79
7 years	2	3	7	0	3	1	0	3	2	2	2	2	0	32
10 years	3	1	0	7	1	1	1	1	1	0	0	3	0	19
15 years	2	1	1	0	0	0	1	0	1	0	0	0	0	12

## Waiver Length Analysis per Commissioner

Subtotal (Waiver)	3	3	3	4	1	4	1	5	1	2	1	1	36	65
1 years	2	2	1	0	1	2	0	0	1	2	0	1	21	33
2 years	0	1	2	2	0	0	1	0	0	0	0	0	10	21
3 years	0	0	0	0	0	1	0	1	0	0	1	0	0	7
4 years	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5 years	0	0	0	2	0	1	0	0	0	0	0	0	1	4

## Postponement Analysis per Commissioner

Subtotal (Postpone)	4	5	2	2	6	9	7	5	4	4	3	2	59	112
Within State Control	0	2	0	1	0	3	3	3	1	0	2	0	48	68
Exigent Circumstance	3	1	1	0	2	0	0	2	2	2	0	1	0	19
Prisoner Postpone	0	2	1	1	0	1	0	0	1	2	1	1	11	25

\*Hearing Totals include other actions such as Rescission, Progress, PC 3000.1, Documentation, 3 year Reviews for 5 year Denials, and EnBanc Reviews



# Lifer Hearing Results ~ Commissioner Summary

January 1, 2009 to January 31, 2009

Hearing Totals*	44	44	42	39	45	37	49	48	47	53	45	51	124	668
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## Summary of Suitability Hearing Results per Commissioner

	Anderson	Arbaugh	Biggers	Bryson	Chones	Doyle	Drummond	Garner	Gillingham	Kane	Michell	Przytnick	BPH HQ	Total
Suitability Hrg Total	44	43	42	39	45	37	49	48	47	53	45	50	124	666
Grants	5	0	3	2	2	5	1	9	6	4	1	5	0	43
Denials	20	26	20	18	16	18	29	23	21	28	22	32	0	273
Stipulations	6	3	15	8	21	6	6	1	10	3	15	10	4	108
Waivers	3	8	3	6	3	3	9	6	3	3	2	1	19	69
Postponements	10	6	1	5	3	5	4	9	7	15	5	2	98	170
Continuances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Split	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cancellations	0	0	0	0	0	0	0	0	0	0	0	0	3	3

## Denial Length Analysis per Commissioner (Sum of Denials and Stipulations)

Subtotal (Deny+Stip)	26	29	35	26	37	24	35	24	31	31	37	42	4	381
3 years	17	16	11	9	16	14	24	12	16	16	16	22	4	195
5 years	6	7	2	5	10	2	9	7	12	6	15	9	0	100
7 years	0	0	0	3	1	1	2	2	0	0	0	8	0	44
10 years	2	2	0	3	3	1	0	2	1	2	1	3	0	26
15 years	1	2	2	0	1	1	0	1	2	0	0	0	0	16

## Waiver Length Analysis per Commissioner

Subtotal (Waiver)	3	8	3	6	3	3	9	6	3	3	2	1	19	69
1 years	0	0	2	2	3	0	0	2	2	2	1	1	16	51
2 years	0	0	0	1	0	0	1	1	1	1	1	0	2	8
3 years	0	0	0	2	0	0	2	3	0	0	0	0	1	8
4 years	0	0	0	2	0	0	0	0	0	0	0	0	0	1
5 years	0	0	1	0	0	0	0	0	0	0	0	0	0	1

## Postponement Analysis per Commissioner

Subtotal (Postpone)	10	6	1	5	3	5	4	9	7	15	5	2	98	170
Within State Control	1	0	0	1	2	2	1	0	0	0	1	0	92	112
Exigent Circumstance	0	2	0	1	0	2	0	2	1	0	3	0	1	30
Prisoner Postpone	0	1	1	0	1	1	0	1	0	15	1	2	5	28

\*Hearing Totals include other actions such as Rescission, Progress, PC 3000.1, Documentation, 3 year Reviews for 5 year Denials, and EnBanc Reviews

PAROLE CONSIDERATION HEARING INFORMATION  
BY COMMISSIONERS AND MONTH  
FOR JANUARY 2008 THROUGH DECEMBER 2008

Comm # Name	ID# 053 Garner	ID# 054 Bryson	ID# 055 Biggers	ID# 056 Davis	ID# 057 Shelton	ID# 058 Martinez	ID# 061 Eng	ID# 062 Kuboehl	ID# 064 Prizmich	ID# 065 Woods	ID# 066 Doyle	ID# 067 Anderson	ID# 069 Arbaugh	ID# 070 Drummond	ID# 071 Kane	ID# 072 Gillingham	ID# 073 Chrones	ID# 074 Michell	ID# 075 CDCR
Hearings**	573	531	555	329	278	241	213	12	593	87	514	448	313	181	255	221	203	203	1641
Grants	43	17	19	6	13	4	9	0	23	2	31	30	32	19	20	19	9	5	0
Pre-Marsy																			
Deny	310	375	423	187	181	163	183	8	385	47	311	315	207	117	176	155	135	124	1
1yr	145	115	187	92	56	50	45	2	153	18	142	132	90	52	76	57	52	30	0
2yrs	97	127	135	51	55	50	73	5	137	19	98	100	70	29	57	51	45	45	0
3yrs	33	54	50	28	22	16	25	0	32	3	42	30	18	15	28	23	16	23	1
4yrs	13	26	28	12	17	24	26	1	44	4	20	33	19	8	13	13	15	13	0
5yrs	22	53	23	4	31	23	14	0	19	3	9	20	10	13	2	11	7	13	0
Post-Marsy																			
Deny	15	4	23	0	0	0	0	0	30	0	11	14	21	13	23	7	6	17	1
1yr	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	1	0	0	1
2yr	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
3yrs	12	1	8	0	0	0	0	0	15	0	6	7	19	9	16	4	3	5	0
5yrs	1	0	4	0	0	0	0	0	6	0	1	5	1	2	5	2	1	8	0
7yrs	0	1	9	0	0	0	0	0	5	0	0	0	0	1	2	0	0	3	0
10yrs	2	1	1	0	0	0	0	0	0	0	1	0	1	1	0	0	1	1	0
15yrs	0	1	1	0	0	0	0	0	4	0	0	2	0	0	0	0	1	0	0
Slips	45	64	124	78	28	18	27	1	75	13	91	51	50	22	24	25	22	23	2
Postpone	179	120	70	135	80	72	26	4	136	37	141	83	37	5	18	31	35	41	1462
I/Alt	61	56	32	34	31	26	16	3	40	9	76	47	18	5	15	16	17	17	289
Exigent	3	0	0	0	0	0	0	0	1	0	0	0	1	0	1	2	3	1	18
BPT/CDCR	115	64	38	101	49	46	10	1	95	28	65	36	18	0	2	13	15	23	1155
I/M Waiver	8	11	17	0	0	0	0	0	11	0	19	2	14	24	17	8	18	15	7

\* CDCR (ID# 999) does not conduct Consideration Hearings. This column reflects actions by BPH-HQ to approve Stipulated Denials, Postponements, and Waivers.

\*\* Number of Grants, Denials, Slips, and Postponements will not sum to the total number of Hearings per commissioner due to other miscellaneous hearings not included in this table.

NOTE: Postponements for Commissioner Doyle (ID# 067) may be elevated due to actions processed through BPH Headquarters.

One and two-year denials reported after implementation of Marsy's Law are due to stipulated denials made prior to the scheduled hearing date.

As a result of on-going quality control efforts this summary reflects minor changes to data relating to past reports issued for individual months within this period.





Senate Confirmation  
Henry J. Aguilar  
Commissioner, Juvenile Parole Board  
Responses to Senate Rules Committee Questions  
March 3, 2009

**Statement of Goals**

*Prior to the July 2005 Department of Corrections reorganization, juvenile parole issues were heard by the Youthful Offender Parole Board. However, in 2005 the Board of Parole Hearings was established as part of the broad reorganization of the former Youth and Adult Corrections Agency (now known as the California Department of Corrections and Rehabilitation). Initially, the five juvenile commissioners were part of a board with the 12 adult commissioners. However, on January 1, 2007, the five members responsible for juvenile matters were transferred to the jurisdiction of the chief deputy secretary of the Division of Juvenile Justice (DJJ), pursuant to SB 737 (Romero), Chapter 10, Statutes of 2005. As a result, the Juvenile Parole Board is now part of DJJ.*

*The duties of the five members of the Juvenile Parole Board include establishing the terms and conditions of parole for soon-to-be paroled youthful offenders, determining whether parolees should be returned to an institution for parole violations, and conducting annual reviews to assess progress of an offender.*

*The juvenile offender population under state jurisdiction has decreased markedly over the past decade, from 10,000 to less than 2,000 as counties have been given more responsibility for handling these offenders. At the same time, partly because of lawsuits, the annual cost of housing juvenile offenders in state facilities has risen to more than an estimated \$250,000, according to the Little Hoover Commission.*

- 1. What are your goals and objectives as a commissioner? What do you hope to accomplish during your tenure? How will you measure your success as a board member?**

My goal as a Juvenile Parole Board commissioner is to protect the public and serve the residents of California. I plan to observe, assess and determine the granting, revoking and discharging of the parole process to ensure a successful reintegration of Division of Juvenile Justice (DJJ) wards into society. During my tenure, I intend to help the youth open their eyes to new possibilities by sharing my personal examples and experiences. The best measure of success is when you see a former DJJ ward in the public and he/she thanks you for the opportunity of allowing them to participate in a normal, law abiding life.

**Senate Rules Committee**

MAR 03 2009

**Appointments**

- 2. *What in particular has prepared you to evaluate the readiness of youthful offenders to parole and be independent citizens? What lessons, if any, from your former job as a Los Angeles County sheriff's deputy do you consider especially helpful in carrying out your current duties, and how do you apply them on a day-to-day basis?***

My past employment with the Department of Public Social Services and in law enforcement has provided me the training and experience in helping a diverse population. Throughout my life, I have assisted others and as a commissioner I will be able to continue my passion of community service to help improve the lives of the youth. The lessons learned from my former job as a deputy sheriff are many: stay true to the golden rule ("Do unto others as you would have them do unto you"), believe that people can rise to expectations placed upon them, and personal accountability. I have worked in the Juvenile Court as a Supervising Deputy Sheriff for twelve years. During that assignment, I was part of our juvenile justice system. Some say that the system is too lenient and others say that it is too harsh. I believe that part of growing up involves making mistakes. I understand that the objective of juvenile law is to rehabilitate and I strive everyday to that end. Daily, when evaluating the readiness of youthful offenders to parole, I consider what is in the best interest of the youth and the public's safety.

### **Training and Policies**

*The 2005 reorganization of the correctional system requires new commissioners to undergo a minimum of 40 hours of training within 60 days of appointment and annually thereafter. Senate staff has been told that commissioners participate in trainings provided by DJJ facility and parole staff, including motivational interviewing, a risk assessment and integrated behavior treatment model, and an overview of aggression replacement training. Staff has also been told that commissioners are being trained on new tools for decision making.*

- 3. *Please describe your initial training, including content and details of who provided the instruction and the length of the training. In your view, did it adequately prepare you for your job?***

During my first week, training was provided at DJJ headquarters that was a thorough orientation on the Juvenile Parole Board, DJJ Programs, Facilities, and Parole. In addition, an overview of the *Farrell* lawsuit and subsequent remedial plans were reviewed with me. During this week, I also attended three hours of Board training with David Robinson, PhD, and Marilyn Vandieten, PhD, with Orbis Partners, Inc., on the development of the Youth Assessment Screening Instrument (YASI) and the Integrated Behavior Treatment Model (IBTM).



After the initial training at headquarters, I was trained in the field by veteran Commissioner Susan Melanson, who instructed me on the overall juvenile parole decision making process and helped me understand and apply the policies, procedures, and codes governing our work. The length of the training was approximately three months involving hours of reading and applying that knowledge to the cases I observed and increasingly participated in.

I have also received four hours of training on recognizing signs and symptoms of mental illness and understanding related communication issues, provided by DJJ Chief Psychologist, Dr. Eric Kunkel, and DJJ Chief Psychiatrist, Dr. Ed Morales. Regarding the *LH* lawsuit, I have received 28 hours of training on the history of the lawsuit and stipulated agreement, newly developed policies and procedures, and operating the Juvenile Scheduling and Tracking System (JSTS).

**4. *Much of your work takes place at DJJ facilities. How much time did you spend observing DJJ rehabilitation programs and living conditions during your training? How much time do you spend observing now, and are you able to observe community programs where parolees might be sent?***

I have observed DJJ rehabilitation programs at the Heman G. Stark facility. I have had the opportunity to attend group sessions on drug counseling and graduations of various rehabilitation programs. I have visited the Ventura Correctional Facility dog grooming program and observed their Dress for Success program. I also observed its high school classes and computer laboratory. At the Southern Clinic in Norwalk, I have observed classes in anger management and Dress for Success. I have visited Homeboy Industries in the city of Los Angeles and spoke to Father Boyle regarding his crusade to help former gang members change their lives. I visited the Phoenix House in Santa Monica and observed their group therapy sessions. I toured the Strive Right program in San Diego and was impressed with its one-stop service concept. I visited a transitional group home in Whittier and spoke to some of their DJJ residents. I am planning to visit more community programs in the future.

**5. *Do you receive legal or other guidance on the most effective strategies in dealing with juvenile wards, witnesses, and attorneys when conducting a hearing? Who provides that guidance, and is it available during a hearing?***

I receive legal guidance from the legal staff at the Department of Corrections and Rehabilitation and DJJ headquarters, as well as from experienced commissioners and board staff. Legal support staff assigned to JPB in general and specific to the *LH* lawsuit attend our board meetings and receive our calls during hearings to provide legal guidance. The CDCR legal team assigned to work with board members includes Bruce Slavin, Marc Remis, Michael Brady, and Simone Renteria.

6. ***When you consider parole for a ward, how have you been trained to determine whether he or she is adequately rehabilitated? To which factors do you give the most weight? Please describe how you use the new decision-making and assessment tools.***

I have been trained to consider all the information in the case file, evaluate the ward's presentation, and make a reasonable assessment as to their rehabilitation and the likelihood to become a law abiding citizen. I equally evaluate all aspects of the ward's progress or lack of it in treatment and training and make necessary considerations for individual abilities and programming opportunities. Discipline write-ups are important in determining parole readiness as I often tell the youth that being in custody is a controlled environment and that the write-ups indicate they lack impulse control. In addition, time cuts earned through the ward incentive program provides a good indication of positive progress. I have been exposed to the new assessment tool utilized by the facilities and anticipate incorporating it into the board's decision making in a systemized fashion in the future.

7. ***How have you been trained to assess the quality of programming—including the adequacy of classroom instruction—the ward received? What are the uniform criteria used by all commissioners and hearing officers? How do you factor in the fact that programming is often hindered by lockdowns?***

The quality of programming can best be assessed by the end product, parole readiness. The most important criteria used by commissioners when considering parole is the ability of the ward to internalize and put to use her/his treatment, training and education. I look for a ward's demonstration of specific learning objectives associated with this treatment and training. This could include identifying errors of criminal thinking, describing impact of crime on victims, understanding restorative justice principles, modeling gang avoidance strategies, and presenting substance abuse relapse prevention plans, and sexual assault cycles. I also consider a ward's accomplishments, certificates and commendations during the hearing. If the ward was unable to complete his treatment due to no fault of his own I factor that into my decision.

### **Parole Revocation Hearings**

*Under a federal court agreement, in a case known as Valdivia v. Schwarzenegger, adult parole violators have the right to counsel and other due process protections in parole revocation hearings. Juveniles sought similar rights in another federal case referred to by the juvenile plaintiff's initials—L.H. The lawsuit alleged that juveniles accused of parole violations were held for weeks or months without any hearings. As part of the*



*settlement in the case reached last year, DJJ agreed to provide legal counsel for all parolees subject to parole violation allegations.*

- 8. *When considering parole revocation, what factors have you been trained to take into account? Specifically, do you make use of any risk assessment tool? What additional training do you believe would be useful?***

I am currently being trained on conducting revocation hearings. I have been observing hearings being conducted by senior commissioners and board representatives as part of my on-the-job training. In parole revocation hearings, I have been trained to consider the parolee's present behavior, life circumstances, and accomplishments since the youth's release from custody. My training provides that I rely on documented facts and observations from her/his parole agent to make an informed decision. We are trained to examine the behavior for which the youth is being considered for revocation and to take into account mitigating and aggravating circumstances, as well as the availability of community based treatment. The Board does not formally utilize the YASI risk assessment tool in parole revocation at this time, but is in the process of developing its application into an actual decision making instrument.

- 9. *Are you informed about the availability of alternative sanctions when considering parole revocation? Are there additional programs that you think should be available? If so, how?***

Alternative sanctions are always considered on a case by case basis. They are part of every parole disposition report provided to the commissioner along with a recommendation from the parole agent. The recommendation, along with employment, schooling, home stability and parolee obligations to encourage proper behavior is considered when providing sanctions in the least restrictive way.

I think vocational training is the key to financial independence and rehabilitation. I believe that DJJ should partner with local trade colleges to offer programs that would be of mutual benefit.

### **Disciplinary Decision Appeals**

*When a ward has time added to his or her length of confinement, the decision is subject to appeal. The juvenile side of the BPH hears second level appeals of these decisions. The Superintendent of the DJJ facility is considered to be the first level of appeal.*



**10. *There appear to be no written standards on which the merits of an appeal can be evaluated. How do you evaluate the merits of an appeal? What guidance is available to you?***

I review the documents and supporting evidence. I discuss with the ward each violation and their reason for the appeal. I determine if there was: 1) a violation of procedural safeguards; 2) evidence which was unavailable at the time of fact finding that is now available and would be material to the finding; 3) evidence not present or insufficient to support a finding; and 4) if a disposition hearing was not conducted correctly or the disposition was unfair. I make a determination based on the evidence presented, review of past disciplinary record, determine if the time add is within the table of sanctions and decide if the appeal should be granted. DJJ headquarters is always available for guidance and counsel on facility procedures and policies.

**11. *What role do you play, if any, in assuring the appeals are heard in a timely manner? Are there timelines for processing appeals?***

Yes, there are timelines within the Disciplinary Decision-Making System (DDMS) process. I review the time frames and make inquiries if there is a delay at anytime throughout the process. If the delay resulted in substantial prejudice to the ward's interest, then I dismiss the case.

**Parole Consideration Hearings**

*Hearings are conducted at youth facilities, adult prisons, and parole offices throughout the state. Commissioners sometimes conduct a number of hearings in a single day.*

**12. *Is the quality of the background material you review sufficient to allow you to make informed decisions? How could it be improved?***

The quality of the background material needed to make an informed decision has to be timely, accurate and comprehensive. The file materials are quite comprehensive, concluding intake documents, probation and juvenile court records, history of DDMS, all treatment team progress reports and psychological evaluations, and chronology of JPB decisions. Technology can improve our decision making process by scanning case files so they can be accessed by board members.

**13. *Please describe how you prepare for a parole consideration hearing. Board members typically review a youthful offender's file on the***

***morning of the hearing. Is this your practice? If so, do you believe it prepares you adequately? How could this process be improved?***

I prepare for a parole consideration hearing by reviewing the case file, asking for an up-to-date DDMS printout and reading all treatment summaries, action log and case notes. I offer recommendations to the ward's parole placement plans if necessary. It is my practice to arrive early to prepare for the hearings. I take notes on each case to prepare myself for the parole consideration hearing. I utilize the time between hearings to further review and prepare.

The scanning of case files for computer access by board members would be a good improvement.

***14. How do you balance the recommendations of a parole agent or another more experienced commissioner hearing the case with your own judgment of a ward's case for parole? How much weight do you place on the advice of DJJ staff?***

I take into account all the recommendations, current information and input from DJJ staff when rendering a parole decision. DJJ facility and parole advice is important as they observe and interact with the youth on a regular basis. I listen to fellow board members and observe their thinking processes as to the parole readiness of the case at hand. Then I rely on my training and experience to make an informed decision that incorporates all of the input that I have received.

***15. When you recommend that a parolee be sent to a treatment program, such as substance abuse, as part of their parole plan, how are you informed about the availability and quality of these programs? Please describe the kind of follow-up that occurs when you recommend that a parolee go to a particular program.***

The proposed parole placement plan is completed by the time I conduct a parole consideration hearing. A substance abuse treatment placement and/or other placement options are recommended when I feel that a ward will be better served based on the individual needs of the ward and placement availability. The quality and availability of these treatment programs is determined by the parole agent. The case management officer will usually follow up and honor any reasonable request I make. I have visited some of these placements to get a first hand perspective.

### **Time Issues**

*DJJ has a disciplinary system in which additional time can be added before a youth may be considered for parole. Youth can appeal these "time adds" to the board. A national*

*team of experts who reviewed DJJ two years ago recommended that the system of "good time" be enhanced so that youths who participate in programs and stay out of trouble can earn back their disciplinary time and be considered for parole at an earlier date.*

- 16. *Experts who reviewed DJJ practices stated that an average of one third of all time spent in DJJ was a result of additional time being added to confinement time. From your experience, what are the factors causing increases in the lengths of stay for youthful offenders? What action, if any, would you recommend to address this issue?***

The main factor I observe causing increases in the lengths of stay for youthful offenders is their negative behavior in the institution. The negative and impulsive behavior can be attributed to gang affiliation, drugs and immaturity. Other factors are sexual and mental health problems that require additional treatment and may extend the youth's detention. The evidence-based programs that are being instituted may help reduce time extensions by providing more effective interventions. Wards who work their program and take advantage of the treatment, training and education offered at DJJ are often brought up early for parole consideration.

- 17. *What is the board's policy on factoring in "good time" or positive behavior? Has the board discussed the best approach to this issue? How do you make this determination?***

The parole board does not give good time credit. This good time or positive behavior is built into the wards' incentive program, which leads to the youthful offender being presented to the Board for parole consideration prior to the original parole board date. Commissioners take into account the positive behavior along with the ward's presentation at the hearing and performance in all aspects of programming, education and daily living in making a decision to release. The Board does not have a policy on factoring in good time credit, but considers each case as a whole in which a time cut has been awarded.

### **Annual Reviews**

*Commissioners are responsible for an annual review of every offender's progress.*

- 18. *What are the benchmarks you look for in this process? What additional information would be helpful to make the most complete assessment?***

Annual reviews are conducted by the Board only for parolees. Senate Bill 459 took away responsibility for annual reviews of wards in facilities from the Board. When conducting parole annual reviews, I look for stability and progress in employment,



schooling, residence, and family life, as well as any critical incidents, negative behavior or new arrests. I review the case file to ensure that the parole services are being offered and utilized to help the ward toward his/her success. More frequent appearances by the ward may be helpful to make a more complete assessment of his/her progress and/or needs.

### **Farrell Lawsuit**

*In 2004 the Administration reached a landmark settlement in the Farrell lawsuit on the conditions of confinement in juvenile facilities. DJJ is supposed to implement a broad array of reforms, including creating smaller living units, improving education and mental health services, and bolstering safety, but it has missed virtually every deadline agreed to in the settlement.*

*Last October an Alameda County judge stated the state was "in gross violation" of court orders by taking too long to reform its juvenile prison system. But he delayed appointment of a receiver to allow the board time to speed up improvements. Meanwhile, the passage of SB 81, Chapter 175, Statutes of 2007, shifted responsibility to counties for all but the most violent juvenile offenders. In addition, the Little Hoover Commission recently recommended that the state eliminate its juvenile justice operations by 2011.*

- 19. How have you been kept abreast of developments in the Farrell case? Do you believe the board should have a role in ensuring that offenders receive the treatment agreed to in the Farrell settlement?**

DJJ sends me regular updates by mail and e-mail regarding the *Farrell* case. I have also been informed through presentations by *Farrell* project staff at our regular board meetings, teleconference calls and phone calls. The board can play a role in the *Farrell* case by observing and reporting on whether or not wards are participating in and benefiting from programs provided for in the *Farrell* case settlement.

- 20. What is your understanding of the timeline for Farrell implementation? Has it been accelerated now that the division has a smaller caseload as a result of SB 81? Please describe the impact of the Farrell case on your hearings. Also, how has the closure of facilities in the past year or so changed your workload?**

My understanding is that new time frames have been agreed upon by the plaintiffs and Special Master in the *Farrell* case. DJJ is working closely with the Court, Special Master, and experts to accelerate the implementation dates in a responsible fashion. The time frames have not been accelerated as a result of a smaller caseload given that development of policies, procedures and programs is not

dependant on caseload. While the facility workload has decreased as a result of the reduction in population, there has been a corresponding increase in workload in *LH* due to the shortened timeframes and the additional of probable cause and revocation extension hearings.

**21. *As the number of juvenile offenders in state facilities drops, what do you see as the continuing role of the Juvenile Parole Board?***

The continuing role of the Juvenile Parole Board can be to ensure that wards receive due process and fair and impartial hearings, and to serve as a monitor and catalyst of the reforms that are intended under the *Farrell* lawsuit.

February 17, 2009

California Legislature  
Senate Rules Committee  
Darrell Steinberg, Chairman  
State Capitol  
Room 420  
Sacramento, Ca. 95814-4900  
Re: Appointment Confirmation Hearing for Sonja Maden

Dear Senator Steinberg and Members of the Senate Rules Committee

You do not know me, however, I feel as though I know each of you. I hope you will confirm my appointment to the Rehabilitation Appeals Board.

I will strive to be available to attend Board Hearings as a Member of the Rehabilitation Appeals Board at any location through out the State of California on any day as requested by the Chairman of the Board, Mr. John Kehoe or staff. I will make every effort to give fair consideration to the appellant appearing before me and to the Department of Rehabilitation staff to enable me to arrive at decisions of the issues based on Title 9 of the state regulations and the federal regulations.

I expect to be a contributing and working member of this Board to reduce travel and overhead expenses. I will contribute accurate, detailed information requested in the proper format to assist the staff. I will be on time for any hearings or meetings. I will prepare for the hearings and I will take accurate and detailed notes to allow me to assist the Board Members to arrive at decisions through deliberation. I have full access and use of computers, email, fax machine, photo copy equipment, cell phone and conference calling abilities and other technology that I can use and provide at no cost to the Department of Rehabilitation for use in Appeals Board related matters. I will offer assistance and transportation to any Board Member.

I have the full cooperation and support of my family members and the staff I work with at South Hills Escrow Corp. to devote the time required to meet the responsibilities of an Appeals Board Member.

I will measure my success through thoughtful and effective participation in the decision making responsibility of the Board of Appeals. Thank you for your consideration and approval of my appointment. There are no changes in Form 700, Statement of Economic Interests. I have enclosed it for your review.

Very truly yours,

  
Sonja M. Maden

Cc: Rehabilitation Appeals Board

**Senate Rules Committee**

FEB 25 2009

**Appointments**



February 16, 2009

Attn: Senate Rules Committee

RE: Short and Long-term Goals

This letter is in regard to the requested outlining of both my future "short and long-term goals" for the board. Also, mentioned in this letter is how the goals will be accomplished and measured.

Short-term goals:

1. To provide prompt and independent hearings for Department of Rehabilitation (DOR) clients Who disagree with counselor decisions, which apply appropriate DOR regulations.

Long-term goals:

1. To become more knowledgeable in the laws and regulations controlling the rights of DOR clients.
2. To promote the prompt reemployment of DOR clients.
3. To elicit all relevant facts from DOR representatives and clients participating in a hearing to support a correct decision.
4. Advocate teleconferencing or web-conferencing (i.e., phone or web-based communication) of board hearings where one or two board members, the Executive Secretary to the Board, and an appellant are situated at the actual site, while other board members access the hearing from a remote location(s). This cost-saving alternative addresses the financial issue of transporting, lodging, and meals, for all board members who attend board meetings, which can be quite expensive and should be questioned, especially in the current down economy. Lastly, I recommend that The Department of Rehabilitation should have in place such resources at each location for those who lack such conferencing capabilities.

Roadmap to Goals:

1. Study DOR regulations and laws.
2. To participate in all trainings to become a better appeals board member.

Goal Metrics:

1. Have decisions reviewed by competent authority.
2. Follow up on DOR clients who participated in hearings before me - to determine if their goals have been accomplished.

In closing, I would also like to mention that I have not re-submitted "Form 700" as no new changes have taken place. Thank you.

Best regards,

Lillian M. Scaife

**Senate Rules Committee**

FEB 18 2009

**Appointments**



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WEDNESDAY, MARCH 25, 2009

1:40 P.M.

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Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713



SENATE RULES COMMITTEE  
STATE OF CALIFORNIA

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HEARING

STATE CAPITOL  
ROOM 113  
SACRAMENTO, CALIFORNIA

--000--

WEDNESDAY, MARCH 25, 2009

1:40 P.M.

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MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair  
SENATOR SAMUEL AANESTAD  
SENATOR ROBERT DUTTON  
SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer  
JANE LEONARD BROWN, Committee Assistant  
NETTIE SABELHAUS, Appointments Consultant  
BILL BAILEY, Assistant to SENATOR AANESTAD  
CHRIS BURNS, Assistant to SENATOR DUTTON  
BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

MATTHEW L. CATE, Secretary, Department of Corrections  
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1 SENATOR OROPEZA: Aye.

2 MS. BROWN: Oropeza aye.

3 Aanestad.

4 SENATOR AANESTAD: Aye.

5 MS. BROWN: Aanestad aye.

6 Steinberg.

7 CHAIRMAN STEINBERG: Aye.

8 MS. BROWN: Steinberg aye.

9 CHAIRMAN STEINBERG: That -- We'll leave the

10 roll open for Senator Dutton. Is he going to be here

11 today?

12 SENATOR AANESTAD: Yes.

13 CHAIRMAN STEINBERG: We'll leave the roll open.

14 Maybe he'll add his name.

15 All right. Let's move to the important piece

16 of today's business, and today appearing for

17 confirmation is Matthew L. Cate as secretary of the

18 Department of Corrections and Rehabilitation.

19 Mr. Cate, love to welcome you up, and I want to

20 make, if I may, a brief opening statement to set the

21 context for today's hearing.

22 I don't think it is an overstatement to say

23 that the position of CDCR secretary is one of the most

24 important in state government. The budget is

25 \$10 billion a year. But even more important, Mr. Cate,

2

1 **PROCEEDINGS**

2 CHAIRMAN STEINBERG: Good afternoon, everyone.

3 The Senate Rules Committee will come to order.

4 Please call the roll.

5 MS. BROWN: Senator Cedillo.

6 Dutton.

7 Oropeza.

8 SENATOR OROPEZA: Here.

9 MS. BROWN: Oropeza here.

10 Aanestad.

11 SENATOR AANESTAD: Here.

12 MS. BROWN: Aanestad here.

13 Steinberg.

14 CHAIRMAN STEINBERG: Here.

15 MS. BROWN: Steinberg here.

16 CHAIRMAN STEINBERG: Thank you. We do have a

17 quorum. Let's begin with item number one, which is

18 reference of bills. Is there a motion on the reference

19 of the bills?

20 SENATOR OROPEZA: So moved.

21 CHAIRMAN STEINBERG: Moved by Senator Oropeza.

22 Please call the roll.

23 MS. BROWN: Senator Cedillo.

24 Dutton.

25 Oropeza.

1

1 the secretary, you, of course, in this instance is

2 responsible for a significant portion of the public

3 safety here in California.

4 I want to put out right away what I don't want

5 to discuss today. And, of course, Members are welcome

6 and members of the public are welcome to talk about

7 anything they want, but this would just be my

8 preference. I want to save the discussion of parole

9 policy for another meeting.

10 In light of the tragedies in Oakland, it would

11 be the easiest thing in the world to have a

12 high-powered, high-octane discussion about this, and,

13 frankly, politicize it, and I don't want to do that.

14 There are too many families that are suffering, a

15 community that is suffering. There are important,

16 important issues that underlie that terrible tragedy

17 that we should discuss, but let's do it with a little

18 breath and respect for the victims and their families.

19 Hold that off for the next discussion with the

20 secretary, if that's okay.

21 We do, however, want to have a series of

22 meetings with you in public, Mr. Cate, not to put you

23 through the proverbial wringer here as an individual,

24 because you're a fine public servant. And we've -- We

25 know each other a little bit, and we've met, and you are

3

1 working very, very hard.  
2 We want to talk about your plans for the  
3 department and for reforming this department. And so we  
4 want to begin today an evaluation, a sober evaluation,  
5 of the department, and also an evaluation of the  
6 secretary, as you have served in this role, and  
7 essentially come to an understanding or an agreement,  
8 not just today, but over the next several weeks, as to  
9 what the right yardsticks are by which we should measure  
10 your performance and by which we should measure the  
11 performance of this department, and what we can do to  
12 better protect the public. To that end, we have a  
13 series of issues that we want to talk to you about today  
14 as we begin this conversation.  
15 There's no question that this confirmation  
16 process is just a small part of the legislature's  
17 ongoing obligation to provide oversight and direction  
18 for the Department of Corrections. Certainly, we have a  
19 number of committee chairs in this house, and vice  
20 chairs, who will continue that work around a budget and  
21 around policy initiatives. And I'm going to ask them,  
22 as I'm going to ask you today, Mr. Cate, a couple of  
23 categories of questions.  
24 We have federal economic stimulus money coming.  
25 Can it help us? We have national and international

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1 media scrutinizing our correctional policies; we have  
2 stacks of reports from experts; and we seem to have the  
3 courts involved at every juncture. I understand Judge  
4 Karlton just issued another order -- I believe it was  
5 today.  
6 We want to use this hearing as an opportunity  
7 to figure out how we together set benchmarks for  
8 improvement of the California Department of Corrections  
9 and a credible plan for how you and we meet those  
10 benchmarks.  
11 The benchmarks fall into a number of different  
12 categories. Today we want to focus on educational and  
13 vocational programs. We want to focus on management  
14 training, or the lack thereof, to attract and retain the  
15 highest-level administrators for the facilities  
16 themselves and for the department itself. And we want  
17 to talk about some -- We want to talk some about DJJ and  
18 what we are doing or what we need to do to help ensure  
19 that juvenile offenders don't become adult offenders.  
20 With that, I would like to welcome you and ask  
21 if you would like to make any kind of an opening  
22 statement, and then we'll begin the question.  
23 Any other Member have -- This is an important  
24 enough confirmation, I'd be happy to open it up to the  
25 Members.

5

1 SENATOR OROPEZA: Vice chair first.  
2 SENATOR AANESTAD: I'm going to wait.  
3 CHAIRMAN STEINBERG: Go ahead.  
4 SENATOR OROPEZA: Just to add to your list, and  
5 Mr. Cate and I met yesterday, so I think he's aware and  
6 I think you're aware also, Mr. Chair, that I'm very  
7 interested in talking specifically about what's going on  
8 and not going on at the women's prisons. So that will  
9 be part of the discussion.  
10 CHAIRMAN STEINBERG: Absolutely.  
11 And, again, just so nobody takes anything  
12 negative or positive from the way we intend to conduct  
13 these hearings, we're not going to vote on confirmation  
14 today. And that's not any kind of negative signal about  
15 Mr. Cate. But we don't believe we can do this  
16 appointment, frankly, justice without having a lengthier  
17 conversation about the direction of this department and  
18 where Mr. Cate intends to take it.  
19 So, welcome to you. We always like to start  
20 out by inviting you to introduce any family member or  
21 any special guest, and then we'll begin.  
22 MR. CATE: Thank you, Mr. Chair and Members.  
23 I would like to introduce briefly my family, my  
24 wife Rachel; my daughter Olivia, who is skipping seventh  
25 grade today to attend, so she'll be leaving shortly to

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1 go back to class; my mother-in-law Linda; my sister  
2 Ronda; and my mom; and my son William, who is not  
3 skipping school. He's on the infamous track program.  
4 CHAIRMAN STEINBERG: Let us thank you, family  
5 members, for your public service, because we all know  
6 that it's a family endeavor oftentimes.  
7 MR. CATE: And so I would just briefly like to  
8 introduce myself a little more fully to the Committee  
9 and thank you for this opportunity to address you today  
10 about CDCR and about my vision for CDCR as its leader.  
11 It was about a year ago that I was first  
12 approached and asked if I was interested in this  
13 position. And my predecessor and friend, Mr. Tilton,  
14 was going to retire for some health-related reasons, and  
15 so we had this discussion about whether I was  
16 interested.  
17 And as I began to talk to some colleagues and  
18 friends here in the Capitol, the question that came back  
19 was: Why would you want the job? Why do you want to be  
20 involved in this, give up your position as Inspector  
21 General and take on a department that has the challenges  
22 that the Chair has described? And there's really three  
23 reasons. I'd like to discuss those briefly, as I think  
24 it impacts why I'm here and where I would like to see  
25 the department go.

7



1 The first is a commitment to the mission of the  
2 department, which is public safety. It's 15 years ago  
3 this month I left private practice to become a  
4 prosecutor and for ten years spent my career in that in  
5 local and state prosecutorial agencies.  
6 I will confess that during those years, my  
7 vision and understanding of public safety was narrow. I  
8 believed it was my job to prosecute the guilty and see  
9 that they were properly sentenced. Once they went to  
10 prison, as long as they were safely, securely there, I  
11 didn't think much about what happened next.  
12 But after becoming Inspector General five years  
13 ago and having responsibility to oversee the entire  
14 department, investigate misconduct, look for systemic  
15 problems, I began to have a broader understanding of its  
16 public-safety mission.  
17 I learned that 95 percent of those people we  
18 put in prison are coming back out to the streets. I  
19 learned that only half of the people in prison will ever  
20 be involved in a treatment program of any kind, and that  
21 our historic recidivism rate, the rate at which our  
22 offenders re-offend, is 70 percent. That's not a strong  
23 public-safety statement. And so I'm passionate about  
24 improving in those areas and taking on the broader scope  
25 of public safety for the department.

8

1 I'm also an optimist, and so the second reason  
2 I took this job is I think we can fix it. I know most  
3 people, at least many, won't agree with me. But I think  
4 the circumstances are right right now to make major  
5 strides, and I think we should focus -- and, really, my  
6 vision is to focus on six areas. I'll just touch on  
7 each one very briefly.  
8 One is overcrowding. We're at 195 percent of  
9 capacity. It makes everything we do more difficult, as  
10 I testified in front of a three-judge panel several  
11 months ago.  
12 Two, because of the overcrowding, really, it's  
13 all we can do to make sure the prisons are safe and  
14 provide constitutional care, and we don't always do  
15 that. Two ways, in my opinion, to address it. Two  
16 primary ways. One is for our most serious and violent  
17 offenders who are going to spend years and years behind  
18 bars, we need to expand our capacity so that we can have  
19 safe prisons for our serious and violent and so that we  
20 have the room, the space, to provide programs. In the  
21 next five years, those folks who went away for three  
22 strikes in 1994 are coming back out, and so it is  
23 imperative that they receive rehabilitative programming  
24 as well.  
25 The other is parole reform. In deference to

9

1 the Chair, I won't address that issue today other than  
2 to say that I'm proud of the work that our parole  
3 agents -- fugitive-apprehension team did in Oakland.  
4 That doesn't mean we have a perfect system. I think we  
5 can improve the system. So I'll save my discussions on  
6 that topic for later today or another day.  
7 So those two ways to address overcrowding.  
8 Next is rehabilitation. A program of --  
9 academic program, a literacy program, we know nationwide  
10 reduces recidivism by 5 percent. That's only one  
11 less -- or one more person in 20 whose life is impacted.  
12 But, Senators, we release 120,000 parolees to the  
13 streets every year, 10,000 a month, 3500 a month to L.A.  
14 county alone, so a 5 percent reduction in recidivism, at  
15 that level, that's 6,000 changed lives. That's 6,000  
16 more taxpayers and, more importantly, 6,000 fewer active  
17 criminals on our streets. So we must have  
18 rehabilitative programming.  
19 We must improve our clinical care. We are in  
20 receivership, as you have mentioned. We are under  
21 scrutiny with class-action suits and mental health and  
22 dental as well. In my view, the State needs to provide  
23 constitutional care not because the courts say so, but  
24 because it's the right thing to do. We've got a moral  
25 and ethical obligation to do so. I don't think we

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1 should need the courts to tell us that. I think we need  
2 to show the competence to get that job done ourselves.  
3 Fourth is Division of Juvenile Justice. We  
4 have the fewest offenders in the nation in our state  
5 system, per capita, 1800 in all of California.  
6 Ninety-nine percent have a violent history -- most have  
7 been the subject of abuse themselves -- mental health  
8 issues, co-occurring drug and alcohol programs, the most  
9 needy wards of this state; and we must do a better job  
10 of treating them, and we've got to do it for less than a  
11 quarter million dollars a year.  
12 Fifth is administration. When I spoke to  
13 Secretary Tilton upon his departure, he said the one  
14 thing he thought he would be able to fix, as a former  
15 member of the Department of Finance, was the budget, and  
16 he said he couldn't do it. Well, we're going to do  
17 that. We need to know where this money is going and  
18 why. We need to fix the HR system in the Department of  
19 Corrections. We need to fix IT.  
20 And the last thing is leadership. I think that  
21 there has been a leadership void in Corrections. Part  
22 of it is the revolving door at the top; part of it is  
23 the lack of training; part of it is that almost everyone  
24 but me will retire at age 50. And so it is a real  
25 challenge, and it's something that I think we should

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1 take on together.  
2 So those are the six areas where my vision lies  
3 for this department.  
4 The last thing I would like to say is that in  
5 the ten months I've been here, I have come to understand  
6 that the department has some of the hardest working,  
7 most dedicated employees that I've ever worked for and  
8 with. They are under-appreciated and under a great deal  
9 of scrutiny every day. And I'm proud of the job they  
10 do, and I'm humbled at the opportunity to be their  
11 leader.  
12 So it's for those reasons that I sit here, and  
13 it's for those reasons that I hope at the end of this  
14 process that I'm confirmed. Thank you very much.  
15 CHAIRMAN STEINBERG: Thank you very much,  
16 again, Mr. Cate.  
17 Let's try to organize the hearing again today,  
18 just because there are so many different categories.  
19 Senator Oropeza has put on the table the issue of the  
20 women's prisons, and I think we should cover that  
21 today -- begin covering that today.  
22 I'd like to cover the education and vocational  
23 training programs, and I'd like to cover as well the  
24 issue of management as you just described it in your  
25 opening statement. And I think those three categories

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1 today. We can come back next week or the week after,  
2 and we can continue through the other categories as  
3 well. All right? Is that okay?  
4 SENATOR AANESTAD: Fine.  
5 CHAIRMAN STEINBERG: Senator Oropeza, do you  
6 want to start?  
7 SENATOR OROPEZA: Oh, sure.  
8 CHAIRMAN STEINBERG: Go ahead.  
9 SENATOR OROPEZA: Sure.  
10 Mr. Cate appreciate the time that we spent  
11 together yesterday, and I appreciate your opening  
12 remarks about why you want to do this really difficult  
13 job. You know, when I -- I look at the challenges, the  
14 breadth of the challenges that you face in managing the  
15 CDCR and that we all face as Californians, it's pretty  
16 mind boggling. You go just a bit below the surface and  
17 it blows your mind. So I'm grateful that you're  
18 interested in taking that bull by the horns.  
19 I have a particular interest and have actually  
20 been involved with the Women's Caucus of the  
21 Legislature, both Senate and Assemblywomen, in a multi-  
22 year effort to learn more and have some kind of positive  
23 impacts for the women in our women's prisons, and so I'd  
24 like to ask you a few questions about specifically how  
25 women are handled in the system.

13

1 And I guess I'd begin by asking you -- I know  
2 there are classifications or levels, levels of  
3 incarceration, levels of, I guess, crime, and people are  
4 categorized one through four, correct?  
5 MR. CATE: (Nods head.)  
6 SENATOR OROPEZA: How do the women sort of  
7 shape up in that regard in terms of the profile of the  
8 women in our prison system?  
9 MR. CATE: Well, 95 percent -- between 90 and  
10 95 percent of the women in our prisons are what would be  
11 categorized as nonserious, nonviolent offenders.  
12 SENATOR OROPEZA: So that would be level one  
13 and -- level one?  
14 MR. CATE: Well, you know, the classification  
15 system also deals with your in-prison conduct and other  
16 issues.  
17 SENATOR OROPEZA: Yes, I see.  
18 MR. CATE: But, really, for the female  
19 offenders -- most level offenders can be at any female  
20 institution. There are some at CIW, California  
21 Institution for Women, who we have moved to a little  
22 more high-secure area; but on the whole, women can be at  
23 any of those prisons.  
24 We are actually in the process of developing a  
25 new female classification system, and so -- It will

14

1 probably be later this summer before that's complete,  
2 but, again, it's a move towards being gender-specific  
3 and responsive in how we do corrections. But for the  
4 most part, it's not as vital as it is for the men, where  
5 we are very careful about adhering to classification.  
6 SENATOR OROPEZA: Mixing levels and that kind  
7 of thing?  
8 MR. CATE: Right. The truth is you can walk  
9 out onto a female prison, and you would feel much safer  
10 than you would in most male prisons.  
11 SENATOR OROPEZA: Now, aren't there certain  
12 benefits or opportunities for program that come with  
13 certain levels in the women's program right now? In  
14 other words, if you are a lower level, you then might be  
15 eligible for certain programs, let's say, that a level  
16 four is not eligible for?  
17 MR. CATE: The most restrictive, of course, are  
18 women on death row. So that is very restrictive. But  
19 it's really -- Institution by institution is different.  
20 So at CIW, for example, in the Chino -- Chino Hills  
21 area, they have a lot of programs that are staffed by a  
22 large contingent of visitors, a large contingent of  
23 volunteers from that community. Those in the Chowchilla  
24 area have less, but that doesn't mean that they are out  
25 of the loop.

15



1 For example, we're placing 250 trauma-informed,  
2 gender-specific substance abuse programs at  
3 California -- at the two facilities in the Chowchilla  
4 Valley area.  
5 SENATOR OROPEZA: So, again, to be very  
6 specific --  
7 MR. CATE: Right.  
8 SENATOR OROPEZA: -- the levels, the four  
9 levels -- and I understand that you're amending them,  
10 changing them, so this may be a short-term circumstance,  
11 but my understanding was that at certain levels of  
12 categorization, the inmate is eligible or not eligible  
13 for certain kinds of programs. Is that true, or is that  
14 not true?  
15 MR. CATE: It is true, especially as to  
16 programs outside -- you know, moving from a facility  
17 like Valley State Prison for Women to a female reentry  
18 facility or a community program. That's true.  
19 I don't believe that as to the vast majority of  
20 women in our prisons that we say, "You're level three,  
21 so you can't be involved in this program, because it's  
22 only for level two offenders." But --  
23 SENATOR OROPEZA: So there aren't those  
24 policies?  
25 MR. CATE: As I said, I think there definitely

16

1 are in deciding who can be treated and who can't be  
2 treated. There definitely are also --  
3 SENATOR OROPEZA: In terms of the community  
4 programs.  
5 MR. CATE: But for offenders who are  
6 incarcerated, I mean, they're still in locked  
7 facilities, and also at the highest levels, yes. But  
8 for the vast majority in the middle, my understanding is  
9 no. Obviously, I'll have a week to go and learn if I  
10 was wrong about that, but that's my understanding.  
11 SENATOR OROPEZA: The reason why the issue of  
12 levels is of interest to me is one of the things that  
13 I've been able to sort of discern in my research is that  
14 the CDCR actually contracted with an outside consultant  
15 out of the University of Cincinnati to conduct a study  
16 of the female prisoners' level, classification, and  
17 whether they were being applied accurately. And that  
18 study was concluded, and the findings came out in  
19 December of '06. So that was, you know, what? Two, two  
20 years ago plus. And in that study they indicated that,  
21 in fact, there were over -- there was an over-  
22 classification in the female prison population, in other  
23 words, folks were being classified at level three who  
24 should actually be at level one.  
25 My concern about that is how that impacted the

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1 inmates relative to what educational rights they had,  
2 what programmatic rights they had, because they were  
3 considered at a higher level.  
4 Can you speak to that? Can you speak to the  
5 responses on that point in the study that the department  
6 has had, or enlighten on the point at all?  
7 MR. CATE: I think the point of -- is well  
8 taken that whether it's our classification system or how  
9 we do substance abuse, we need to be cognizant of the  
10 differences between our female and male offenders. And  
11 I'm talking to the women at the prisons. They tell me  
12 that's their number-one issue, making sure we understand  
13 they're female inmates, not just inmates.  
14 And while we have modified our assessment, risk  
15 needs assessment --  
16 SENATOR OROPEZA: Yes, we talked about that  
17 yesterday.  
18 MR. CATE: -- for female offenders, that has  
19 been adjusted to be gender-responsive. We are still  
20 waiting to have the classification system revamped, but  
21 we try to make decisions on who gets into a program  
22 based upon who needs that program, regardless of the  
23 level of the offender.  
24 SENATOR OROPEZA: So when do you think -- Is  
25 that classification, that process, ongoing right now,

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1 the reclassification process?  
2 MR. CATE: Yes. My staff have told me it's  
3 going to be ready in the late summer or early fall.  
4 SENATOR OROPEZA: Late summer or early fall.  
5 Do you foresee that as a result of that, there  
6 may be changes at the facilities relative to programs,  
7 educational programs and others?  
8 This is really -- Mr. Steinberg -- a big  
9 concern of Mr. Steinberg, generally, about the entire  
10 population. I'm just sort of focusing in here on the  
11 women a little bit.  
12 MR. CATE: And, again, this is an area where I  
13 really rely on the expertise of my staff. Wendy Still,  
14 for example, who I ran into today, really helped create  
15 this. And we have a female offender master plan that  
16 lays out where we want to go, which we've delivered to  
17 the legislature. We have a female offender associate  
18 director who is in charge of that entire mission, and we  
19 have a gender-responsive strategies commission, state  
20 stakeholders who work with our associate director in  
21 this area.  
22 So I don't claim to be the expert on this area,  
23 but I do understand that once this is in place, it will  
24 inform our decisions about who goes where and why. But  
25 I have to say from talking to my staff on the whole,

19



1 right now, our staff understands that women's  
2 classification issues shouldn't keep women from  
3 attending one program or another within those three  
4 institutions.  
5 SENATOR OROPEZA: Yes, but it does impact,  
6 because if you want to, perhaps, consider somebody for a  
7 community program, it would impact there, wouldn't it?  
8 MR. CATE: Yes.  
9 SENATOR OROPEZA: This is an area that needs to  
10 be fixed. We need to feel -- I need to feel, my  
11 colleagues need to feel, that there is an accurate  
12 assessment going on where these women are given -- I'm  
13 not talking about coddling people. They certainly have  
14 committed crimes. But within the context of the rules  
15 of the game, that they're getting what they should get  
16 because they're being classified appropriately.  
17 So this, I think, should be a front-burner  
18 issue, and it's one that despite the fact that -- What  
19 did you say the female population is? I have it here  
20 somewhere. But the overall female population is  
21 obviously a fraction of -- it's 14,000 women. It's a  
22 fraction of what the male population is, but this is a  
23 population that also predominantly has children. So  
24 we're talking about whether or not we will raise another  
25 generation of criminals, or whether we will raise

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1 another generation -- I mean, a generation of healthy  
2 children who can be productive, and helping their  
3 mothers to become productive.  
4 The recidivism rate, as I understand it, is  
5 much lower on the women's side. Isn't that true?  
6 MR. CATE: It is true.  
7 SENATOR OROPEZA: Yes. So we have real hope  
8 with these inmates, and I guess I feel like even though  
9 it's a fraction of what the overall population is, I'd  
10 like to see that you track that with your experts, not  
11 that you just take their word for it, but there's some  
12 data backing it up, and, you know, there's some  
13 accountability on it so we know we're doing right by the  
14 women.  
15 Let me ask you about a specific situation. I  
16 recently went on a tour of a residential multiservice  
17 center here in Sacramento, and I was very impressed.  
18 You and I talked about it yesterday. It was a sort of  
19 holistic approach to -- oh, this is parole, so I'll wait  
20 till tomorrow. I'll wait till next time, because it's  
21 about parole. I'll put that on my parole list, or can I  
22 talk about it now?  
23 CHAIRMAN STEINBERG: I think if you wait, that  
24 will be great.  
25 SENATOR OROPEZA: I will wait.

21

1 CHAIRMAN STEINBERG: We'll do this by category,  
2 and parole is better talked about later.  
3 SENATOR OROPEZA: I will wait. I will wait. I  
4 will wait.  
5 So let me ask you about the Avenal State Prison  
6 telephone reservation system, and this will go to  
7 something you and I spent some time talking about  
8 yesterday about best practices.  
9 It's my understanding -- As I mentioned, many,  
10 many of the women in these facilities are mothers. My  
11 understanding is that at Avenal State Prison, they've  
12 developed this reservation system which has helped to  
13 make it possible for the families who go to the prison  
14 to actually see their loved one.  
15 The current situation at a lot of our  
16 facilities, including the women's facilities, is that  
17 there's no plan, so there can be a crunch, and too many  
18 people and not enough opportune time for all the  
19 families to be able to see their loved ones. So this  
20 reservation system has helped with that, because people  
21 plan ahead, and then they know if they can or can't go.  
22 Are you familiar at all with that?  
23 MR. CATE: I am.  
24 SENATOR OROPEZA: Yeah. So it's been a very  
25 successful program, hasn't it?

22

1 MR. CATE: It has been, especially at a place  
2 like Avenal, with 7,000 inmates.  
3 SENATOR OROPEZA: Well, what I'm told is that  
4 same problem occurs at other facilities, the same  
5 problem of the families not being able to get in to see  
6 the inmate.  
7 Can I ask you why we don't have that kind of a  
8 program at any of the other prisons? Because it seems  
9 like -- and this goes, really, to this best practices  
10 concept that I would just love to see more of in the  
11 system overall. When you find something that works  
12 well, why not duplicate it at other places to help solve  
13 a problem?  
14 So can you talk to me about the logic behind  
15 not having it at any other....  
16 MR. CATE: Sure. This is an area where I get a  
17 little bit of a break in that this Committee has raised  
18 this issue before, so --  
19 SENATOR OROPEZA: I'm new on the Committee, so  
20 I wouldn't know that.  
21 MR. CATE: As a result, we are rolling out that  
22 program at other prisons, but I can't take a great deal  
23 of credit for it. I think it was public scrutiny that  
24 drove us to it. So it is happening at other prisons,  
25 and many others are evaluating it. Those prisons that

23

1 don't cancel visiting because of overcrowding don't need  
2 it. So if everybody can see their loved one on a  
3 particular day, you know, then they don't necessarily  
4 need the program like you would at a prison where people  
5 are going to have their visits cut short because of the  
6 crowding at that facility. Each warden has the ability  
7 to look at this and is being asked to look at it and  
8 make a decision for his or her own facility.

9 I know at women's facilities, the wardens have  
10 been very upfront or proactive on the issue. For  
11 example, busing families from the Los Angeles area to  
12 the prisons for visits, those kinds of things, have  
13 really been the output not of my work but of the work of  
14 our directors and our wardens of those facilities in  
15 reaching out to the communities. I think they -- And I  
16 share your view that that family connection is  
17 important.

18 SENATOR OROPEZA: Yes, and of course now that  
19 you're going to be at the helm, I assume, ultimately,  
20 after this process, on a permanent basis, and we hope  
21 for a longer time than your predecessors, it will be  
22 your responsibility to make sure that that happens,  
23 right?

24 I mean, in the end, the buck stops with you.  
25 And I don't mean that in a rude way. I just mean in the

24

1 end, it's good that your folks are out there  
2 implementing. It's just that you've got to keep track  
3 that they do.

4 So what I'm asking you is, if you could,  
5 between now and the next time we get together, find out  
6 what the status is at those three prisons, I would be  
7 very appreciative of that. Because two of them are  
8 pretty good size. One is over 4,000; the other one is  
9 right at 4,000. So that's a pretty hefty number. But  
10 the third facility in Corona is smaller and may not have  
11 a need.

12 I'll finish up here in just a minute.

13 I wanted to ask about the big-picture question  
14 of the use of best practices. How do you -- And when I  
15 say "best," I know that's sort of a buzz term, but what  
16 I mean is: When you see a program that's working well  
17 at one place, then maybe that's the best way to do it,  
18 if it's really working well, and maybe we ought to see  
19 if it will work well at other places. So that's the  
20 "best practices" sort of definition, from my point of  
21 view.

22 How do you, as secretary, ensure that those  
23 best practices are happening around your very large  
24 system? Do you -- Well, how do you do that?

25 MR. CATE: Well, I have to focus on the 30,000-

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1 foot level, primarily. So one piece of it is you have  
2 to hire terrific administrators, great wardens, great  
3 associate directors, directors, who understand that  
4 that's what we're after and are clear on what the vision  
5 is in that regard. So that's step one.

6 Step two is you have to have an overarching  
7 plan that is based upon best practice. And so this  
8 legislature, along with the governor, has put together  
9 an expert panel on recidivism reduction. They have  
10 produced a master plan for California that uses those  
11 best practices, that defines for us that we must assess  
12 inmates, risk inmates, that we must assign the right  
13 inmate to the right program for the right duration, that  
14 we must follow up with those inmates and make sure that  
15 we get successful reentry.

16 Those things, those basic programmatic system-  
17 wide things, that's my job, to make sure we have the  
18 right plan in place. And then I need to stay on top of  
19 it to ask: How far have we gone? How much have we done  
20 so far?

21 Now, I'll tell you, again, in this female,  
22 gender-responsive area, we have had national leaders at  
23 Department of Corrections in this area for some time.  
24 Now, the receiver stole one, and I just started talking  
25 to him again after that offense. But kidding aside, we

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1 have seen some terrific people come through.

2 And so before we had a plan for the entire male  
3 population, we had a plan for the women, and I think it  
4 is based on best practices. Now, can we be subject to  
5 criticism for not looking at each facility hard enough  
6 to say, "What's the best at CIW that can go to CCWF,"  
7 et cetera? Perhaps, but I think on the whole, those  
8 wardens, they talk to one another all the time. And the  
9 associate director, who actually we just lost to go back  
10 to become a warden in the Central Valley, was committed  
11 to have those women work together. So I think we're  
12 doing, Senator, a pretty good job in that area.

13 SENATOR OROPEZA: I hope so, because, you know,  
14 change is hard for everybody. It's human nature. And I  
15 believe there's communication going on between wardens,  
16 but to make a major change in your institution takes  
17 guts, takes energy, takes work, and it's not always easy  
18 to move an institution. So I hope that your optimism is  
19 well-founded and that they are taking the best from each  
20 other.

21 MR. CATE: If I --

22 SENATOR OROPEZA: You know, it's hard to do  
23 unless there's pressure from above to say, "Do it," I  
24 guess is what I'm saying, to say, "Get out there -- Get  
25 out there," you know, "and let's have a system that is

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1 sort of understandable across the state."  
2 It just sort of makes horse sense to me too. I  
3 mean, inmates are inmates. Yes, they're each unique  
4 people, but you've got a certain charge, a certain  
5 mission, for them, and I just feel like maybe, you know,  
6 uniformity in some ways might be useful if it is  
7 something that really works.  
8 CHAIRMAN STEINBERG: Can I pick it up from  
9 there, because I think it's actually a very good segue  
10 to my line of questioning.  
11 SENATOR OROPEZA: Please.  
12 CHAIRMAN STEINBERG: Thank you, Senator  
13 Oropeza.  
14 MR. CATE: Um-hmm.  
15 CHAIRMAN STEINBERG: I want to talk about  
16 program, and as we talked about today, I also want to  
17 talk about management. And as we proceed through this  
18 hearing, there are sort of two levels of conversation.  
19 One is about you as the secretary; the other is about  
20 the department itself. And I think in some way the  
21 elephant in the room for me that I just kind of want to  
22 put out on the table here is whether or not this  
23 department, under any circumstances or any leader, is,  
24 in fact, governable.  
25 One hundred sixty-eight thousand inmates,

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1 capacity for about 100,000. You have a federal -- well-  
2 known, well-documented federal court -- not just one  
3 federal court, but a series of federal courts and  
4 federal judges overseeing the constitutional  
5 deficiencies in the department related to overcrowding,  
6 related to healthcare, related specifically to mental  
7 health.  
8 You have -- We're not going to talk in detail,  
9 again, about parole today, but you have a parole system  
10 with -- the ratio between officer and parolee is high.  
11 I sort of want to ask you: What should we  
12 expect from you, as the department director, in terms of  
13 change? How quickly can we expect the kind of change  
14 that people -- the people of California and its elected  
15 representatives would look at and say, "Okay. That's  
16 fundamentally different, and here's a system that we can  
17 be proud of?"  
18 MR. CATE: Well, that's a multilevel question,  
19 and I'll try to address it at a couple different levels  
20 as well. We are not going to go from 195 percent  
21 overcrowding to significantly less overnight, absent a  
22 federal court order, probably. I think we should work  
23 our way down, though. And part of that is parole  
24 reform, so I'll save those comments.  
25 I think that it is -- I'll use one example

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1 that, I think, touches on what you said in that we have  
2 now a plan for how to roll out rehabilitative  
3 programming throughout the system. So we decided to  
4 take on one prison to act as a pilot to try to do the  
5 whole thing at this one prison, soup to nuts, as they  
6 say. Well, that one prison houses 5,000 inmates.  
7 So in talking with my colleagues from -- my  
8 colleague from Rhode Island in particular, I found that  
9 our pilot program is larger than his entire system. So  
10 I think your point is well taken, that it is an enormous  
11 ship to try to turn, and it will take time. And it  
12 takes a consistent vision and consistent application  
13 over time to see change.  
14 But I would point out just a couple things that  
15 I think are good already that I don't think get enough  
16 notice, and I won't go on very long with this. But it's  
17 only been -- 18 months ago, we had 20,000 inmates in  
18 gyms and dayroom floors. We have 12,000 today. That's  
19 a good thing. We had 20,000 people who had absconded  
20 from parole supervision. We're down to 16,000 now.  
21 That's a good thing. We've developed a new model of  
22 evaluating parole violation, which I won't go into, and  
23 it's a good thing.  
24 I'll end with this, although I can go on. We,  
25 for the first time, are developing a good relationship

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1 with the receiver, and I think for a number of years,  
2 you know, since maybe the beginning, people thought that  
3 was impossible. I think we're making progress.  
4 And there is a lot to do, sir. You're  
5 absolutely right, but I think we've got to take this  
6 on -- have a big plan, and, as you said, let's set up  
7 some measurements and then see if we can't kick some of  
8 these off together. And that's why I took the job.  
9 CHAIRMAN STEINBERG: Did the effort to remove  
10 the receiver put any chill in the relationship?  
11 MR. CATE: Of course it did, as did the  
12 receiver's attempt to hold the governor in contempt. It  
13 was very chilly for a while; but the receiver and I got  
14 together and said, "We've got people -- employees in the  
15 field and inmate patients that need to be governed now,"  
16 and so I think we are doing that for the first time.  
17 I'm proud of that effort. We're still lobbing  
18 cannonballs kind of back and forth from the legal teams,  
19 which makes it even harder, but I think we can fix that  
20 too.  
21 CHAIRMAN STEINBERG: Okay. Let me see if --  
22 First of all, I want to announce to folks I  
23 have a couple questions here. We are planning to take  
24 public testimony today, even though we're not planning  
25 to have a vote. So the public can be heard on these

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1 issues or any other issues if you want and you can't  
2 come back another time, so we will get to that after our  
3 questioning.  
4 Let's get right into what constitutes adequate  
5 progress, and not just your general vision, which I know  
6 and appreciate, but your specific implementation plan  
7 for fulfilling that vision. We know that 14,400 inmates  
8 are participating now in traditional academic programs,  
9 and that's an increase from '05-'06. We know that 9300  
10 inmates are participating now in vocation programs, and  
11 yet we have a prison population of 168,000. The ratio  
12 is abysmal in terms of the percentage of those in  
13 programs versus the number of inmates.  
14 Can you give us a sense or a detail as to how  
15 you intend to improve those numbers and over what period  
16 of time?  
17 MR. CATE: Well, I think that we have been  
18 making progress incrementally; and it is a large system,  
19 and at incremental rates it would take a long time.  
20 Your question -- and I'll -- I want to address  
21 it first by saying that the department has to have a  
22 really effective strategic plan, so not only a vision  
23 and a mission, values, goals, and objectives, but a work  
24 action plan, Senator, that addresses each of those  
25 objectives.

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1 So for the last six months, we've been working  
2 on a new strategic plan, because in my experience as an  
3 administrator, you've got to know exactly how you're  
4 going to take on each of these issues, because we're  
5 going to fight over resources otherwise. Again, you  
6 asked me not to do big picture, and I just did big  
7 picture.  
8 Specifically for education, we have -- For the  
9 first time, every offender who walks into the reception  
10 center is being assessed for their academic need. Every  
11 offender is being assessed for their academic need that  
12 goes through the normal reception-center process and who  
13 are going to go to a general population prison. That's  
14 a good thing, because at least we'll know what the need  
15 is, finally. We can assess that. Because not all those  
16 inmates need -- some of them are in the college program,  
17 for example, and we need to continue to expand our  
18 ability to, for example, get substitute teachers so we  
19 get the classrooms open when the teacher is absent.  
20 But my impression overall about the academic  
21 system, to be quite candid, is that we have far too many  
22 inmates and far too much need to do this the traditional  
23 way.  
24 CHAIRMAN STEINBERG: Your sister's choking.  
25 I'm trying to be of help today.

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1 MR. CATE: I told her that if I raise my hand,  
2 to choke and buy time.  
3 CHAIRMAN STEINBERG: Very good. Very good.  
4 MR. CATE: You're going to hear choking from my  
5 children and my grandmother in turn, if you keep asking  
6 me hard questions.  
7 And so I don't -- I can't come in today and say  
8 we're at 14,600 today; we need to be at 15,300 tomorrow.  
9 CHAIRMAN STEINBERG: When the strategic plan is  
10 completed, will you be able to set those sorts of  
11 benchmarks to give the legislature and the public some  
12 confidence that those numbers are going to increase  
13 aggressively over time?  
14 MR. CATE: Absolutely.  
15 CHAIRMAN STEINBERG: When is that plan going to  
16 be done?  
17 MR. CATE: Well, we have vision mission values  
18 goals done; we have now engaged our extended executives  
19 to review those; we've hired our consultant; and we are  
20 on the way.  
21 I would expect to have -- I'll just share this  
22 with you as we go along. We'll have our objectives done  
23 in the next 30 to 60 days and work action plans set this  
24 summer. So I don't have -- I don't know the date we'll  
25 be done, because it's interactive. I've got to find out

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1 from my staff whether they buy it or not, because if  
2 they don't buy into it, if this isn't our shared vision,  
3 then we're all in trouble. But I think we'll have this  
4 done by this summer.  
5 I've been through this process before, and  
6 that's about how long it took. This is a gigantic  
7 organization. It should have been done at this level.  
8 CHAIRMAN STEINBERG: That's the point. The  
9 sense of frustration you'll hear from me is -- There are  
10 a zillion strategic plans, right? We call them dusty-  
11 shelf reports. I want to know why is it that difficult  
12 to be able to report back to the legislature within a  
13 short period of time that the department plans to  
14 increase that 14,400 number to 25,000 by X date, and  
15 then 50,000 by X date.  
16 I don't need the value and the mission  
17 statement and all that. I know your values. I know  
18 what you want and what your intent is and what you're  
19 trying to do, but we don't need a value statement. What  
20 we want to know --  
21 You know, President Obama is pretty fond of  
22 saying lately, "Be patient. We're not going to turn it  
23 around overnight." I can accept that. I can accept  
24 that from you, certainly, given the nature of the job  
25 and the size of the department; but to wait seven, eight

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1 months to get a strategic plan that may or may not have  
2 the kind of specific benchmarks that I think are  
3 important to generate some confidence that we're  
4 actually moving in the right direction, that's troubling  
5 to me.

6 And so let me go through, if I might, Matt,  
7 Mr. Cate, a couple other areas. I want to make a  
8 specific request. And maybe we need to help in terms of  
9 our staff assistants working with the administration,  
10 et cetera, but I want to get to a specific ask here in a  
11 moment.

12 We talked about education and vocational  
13 programs. Literacy. Here's another one. All we know  
14 is that the department has 628 so-called lifers who are  
15 trained to be literacy tutors, and we know that the  
16 illiteracy rate in state prison is large. I don't know  
17 what that number 628 means, and I don't know what  
18 they're doing exactly, and I don't know if there's a  
19 strategic plan with actual benchmarks to cut the  
20 illiteracy rate in half over the next X period of time.

21 Can you provide us any specificity on not only  
22 your vision but your plan to reduce illiteracy within  
23 the state prison system as part of rehabilitation?

24 MR. CATE: Sure. I've been meeting with my  
25 undersecretary and chief deputy secretary of program

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1 about the literacy issue, and we are taking that issue  
2 on as a special project, so we're not waiting for the  
3 entire strategic plan to be done. And we're working now  
4 to have -- so that each prison has its own literacy  
5 plan. The reason that's important is that at a place  
6 like San Quentin where 80 percent of the state's  
7 visitors and volunteers are, we have a lot of people who  
8 help with literacy. In Blythe, we have very few, and so  
9 inmates have to do that work, because it's a lot of  
10 one-on-one, and librarians do that work, and teachers do  
11 that work on the side.

12 It has to be a ground -- grass-roots kind of  
13 prison-by-prison plan that's wrapped up, because each  
14 prison is so different as to how they conduct this issue  
15 of literacy.

16 We're going forward with adult programs and  
17 adult education everywhere where we have a general  
18 population, and we're rolling out our plan on reducing  
19 recidivism; but as to literacy itself, I think it has to  
20 be institution by institution to make sure we reach as  
21 many as we can as fast as we can.

22 CHAIRMAN STEINBERG: I want to ask you a  
23 philosophical question. Our public schools are held  
24 accountable through an academic performance index that  
25 measures student test scores. As parents, we're

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1 familiar with the testing program. Do you think that  
2 the department should be accountable for reducing  
3 illiteracy in the state corrections system?

4 MR. CATE: Yes, I do. And I think that we  
5 should -- well, and this is --

6 CHAIRMAN STEINBERG: How? How would you  
7 measure -- How would you hold yourselves accountable?

8 MR. CATE: I think it would be the same way  
9 that we utilized at the Inspector General's Office. Set  
10 your facts. The rate is 15 to 20 percent now. Figure  
11 out exactly what that is. You give yourself a year, or  
12 three years, or five years, and you measure your  
13 progress on bringing that down. It's like running any  
14 other business.

15 I think for too long the department has been  
16 run like a mom-and-pop shop and largely has just been  
17 moving from fire to fire, and I think that's part of the  
18 reason. And I'll push back a little bit on the  
19 strategic plan thing. There is not enough room in these  
20 prisons to have a literacy program, and the law library,  
21 and the additional clinic space for the dentist, and the  
22 security folks are worried about this new fence that  
23 needs to be built, and we need to address the cell  
24 phones, which I'm sure we'll talk about at some time,  
25 and those all pull on the same resources.

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1 So while we'll do a literacy program prison by  
2 prison to make sure that we move that forward, it does  
3 require, at some level, 30,000-foot planning. I know  
4 you weren't saying it doesn't, but -- I mean, we should  
5 measure ourselves the way business does.

6 CHAIRMAN STEINBERG: Your last comment is very  
7 interesting to me, and I put it under the category of  
8 candor, because I asked you a moment ago about  
9 expectations and what we should expect, and basically  
10 what I just heard you say is, you know, unless and until  
11 we reform our criminal justice system, sentencing  
12 reform, parole reform, that we are going to continue to  
13 have a capacity issue that's going to make it -- not  
14 impossible, but extraordinarily difficult to actually  
15 provide the level of programming that we expect. Is  
16 that a fair statement?

17 MR. CATE: Yes. We will not -- We will not  
18 improve as quickly as everyone would like at the current  
19 level of crowding.

20 CHAIRMAN STEINBERG: Do you favor a sense --  
21 I'm sorry. Senator Aanestad.

22 SENATOR AANESTAD: I think you left out one  
23 option, and that is building more capacity.

24 CHAIRMAN STEINBERG: That is an option.  
25 Thankfully, we don't have a budget problem in

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1 California. But, you know, that's an option. That's  
2 right. And that ought to be debated.  
3 I just had another thought, and I forgot what  
4 it was.  
5 Do you favor sentencing reform?  
6 MR. CATE: You know, really, I can speak as --  
7 I'll put my former prosecutor's hat on to say that I  
8 certainly saw there were low-level offenses that were  
9 treated extraordinarily harshly and high-level offenses  
10 that weren't, and that there are issues within our  
11 sentencing laws that could be reformed. I don't know  
12 anybody who would disagree with that.  
13 Obviously, the difficult question is: Who  
14 decides, and what is their power and authority? And,  
15 frankly, I think that's -- you know, a little bit of --  
16 that's a decision for this body and the governor to  
17 make, ultimately.  
18 But I'm not -- I don't think from the  
19 corrections point of view that there's anything in  
20 particular about sentencing reform that impacts one  
21 way or the other what we're doing, other than to the  
22 extent that it results in less inmates. And I don't  
23 know what sentencing reform would do that -- again, I  
24 don't know how it would come out.  
25 CHAIRMAN STEINBERG: Well, my notion of

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1 sentencing reform is to differentiate between violent,  
2 high-risk offenders and nonviolent, lower-risk  
3 offenders, and to ease the capacity issue, which you  
4 just said is at the root of the problem, and reduce the  
5 prison population. That's what the courts are telling  
6 us to do.  
7 Do you view -- And I know your job is just like  
8 ours. It's a political job, right? And we are  
9 certainly -- We certainly have a significant amount of  
0 freedom as long as we're working consistent with what  
1 our million constituents or so want us to do, but you  
2 work for the governor.  
3 Do you view yourself as a corrections  
4 administrator or a -- or a criminal justice leader here  
5 in California? And if I need to clarify, I'm happy to  
6 do so.  
7 Do you view yourself as having the freedom and  
8 the ability to speak out on issues like sentencing  
9 reform or creative ways to reduce the prison population  
0 in California?  
1 MR. CATE: I think that the governor has given  
2 me the leeway to speak out on policy issues related to  
3 corrections. I don't claim to be an expert on the  
4 entirety of the criminal justice system, or the impact  
5 on something like sentencing reform on the district

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1 attorney's or the sheriffs and locals.  
2 I can tell you what the impact would be -- what  
3 the impact is on corrections and overcrowding, and I can  
4 tell you in areas like parole reform, that I'm more  
5 involved with, I can speak with a little more certainty  
6 at another time.  
7 But, again, I do -- The governor has given me  
8 some leeway to speak on issues that relate to  
9 correctional policy. I just don't want to go far beyond  
10 that, because I'm not an expert in that area.  
11 CHAIRMAN STEINBERG: I understand. My  
12 suggestion, and this is just one country senator  
13 speaking here, is that you, in fact, see it as part of  
14 your mission, to speak out on issues like sentencing  
15 reform. I'm not saying your opinion should necessarily  
16 be my opinion. I'm not prejudging that. But I think  
17 you are in the --  
18 You have the most credibility. You potentially  
19 have the most credibility, because you are the one who  
20 is being asked to administer and to manage the  
21 consequences of this system that we and previous we's  
22 have established here in California.  
23 And so if you don't become an expert, or you  
24 don't speak out on what needs to change, all we're left,  
25 then, with is the federal court, the judges for lives,

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1 and our voices -- and our voices. But I just think you  
2 have to get to a point in terms of your -- you know,  
3 your confidence, once you gain even more experience in  
4 this job, to speak out forcefully on these issues, and  
5 we'll agree or disagree, whatever. But without your  
6 voice, what are we left with?  
7 Okay. Mental health. You told us in your  
8 responses that you have 300 mentally ill parolees  
9 participating in programs. Again, I want to stay away  
10 from parole, but in terms of mental health, you have a  
11 court order 14 years in the making that we're not  
12 providing mental health beds for folks. But to me it's  
13 just beyond -- it's well beyond beds.  
14 What is the department doing to incorporate  
15 some of the systems-of-care approach that's being used  
16 so successfully in Proposition 63 and community mental  
17 health to help end the cycle of homelessness for people  
18 living with mental illness? What are you doing to try  
19 to incorporate those principles of systems of care into  
20 the institutions and into the parole programs  
21 themselves?  
22 MR. CATE: Well, where we were a year ago is  
23 that our parole agents would provide some monetary  
24 assistance, maybe a referral to a mental health  
25 clinician.

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1 Where we are today is that we have issued an  
2 RFP and are about to make awards for what I have come to  
3 learn is the absolute best treatment for our mentally  
4 ill parolees, which is wraparound services, integrated  
5 services. So we are going forward at a big level, in a  
6 big way, with those -- We didn't get a large community  
7 response the first time. I'm not sure we got the RFP  
8 just right, but we've done it now, and I think we are  
9 going to get a good response, and we are going to treat  
10 our mentally ill parolees with those wraparound  
11 services. It's their best hope.

12 We are not as advanced in the institutions. We  
13 do need additional beds. The waiting list to go from an  
14 outpatient care to intermediate or acute care is too  
15 long. And, you know, there's got to be a source of  
16 funds to build the capacity that we have recognized, and  
17 that is an area that I think, again, perhaps with the  
18 additional flexibility this body gave us in AB 900, we  
19 might be able to expand our capacity to treat our  
20 mentally ill.

21 CHAIRMAN STEINBERG: Judge Karlton today said  
22 it's mind-boggling that the state still doesn't have a  
23 mental-health treatment plan 14 years after the  
24 class-action lawsuit was first filed. What's your  
25 response to that?

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1 MR. CATE: Judge Karlton has high standards on  
2 this issue. There's no question. And he doesn't have  
3 to worry about whether we've got the money for it. He  
4 doesn't have to worry about any of the other issues.  
5 And that's fine. That's his job, is to focus on the  
6 case in front of him.

7 We have put together mental health bed plans  
8 before, for example, that weren't funded, and obviously  
9 we can't build them without the funding, so what we have  
10 come forward with is plans on a number of smaller  
11 projects to expand capacity.

12 But, Senator, ultimately we've got to come up  
13 with the plan and the funding to address the mental  
14 health bed shortage. I think in speaking to experts in  
15 this area and speaking to the court's special master, it  
16 is that issue of mental health bed space that stands  
17 between this state and getting out of the *Coleman* case,  
18 in my view.

19 CHAIRMAN STEINBERG: I want to take a break in  
20 just a moment, because I know our court reporter  
21 probably needs a break, but I want to end this chapter,  
22 and then we'll come back in ten minutes and turn it over  
23 to our Republican colleagues for some questioning here  
24 as well.

25 Again, I appreciate very much your candor on

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1 the issue of what is the constraint when it comes to  
2 programs, because I think you really spoke honestly to  
3 the core of the problem.

4 Having said that, I would ask you to come back,  
5 whether it's the next time we meet -- you know, I want  
6 to make sure you have a reasonable period of time -- but  
7 to come back in a month or so and essentially try to  
8 expedite at least part of the strategic plan that you're  
9 talking about, because what the Committee would be very,  
10 very interested in are benchmarks, with as much  
11 specificity as you can, to measure the successful  
12 programs and the progress that you expect to make over  
13 time; where you are today when it comes to literacy,  
14 mental health, and substance abuse, education and  
15 vocational programs, where you are today and where you  
16 plan to be over time in terms of program participation,  
17 a timeline for implementation of those advances.

18 The Committee would like to have that in its  
19 possession so that we can, in a month or so, sort of  
20 come out of this process saying that we agreed together  
21 on some realistic but aggressive advancements in the  
22 area of program and education.

23 MR. CATE: Okay. I'll do that as soon as  
24 possible. If we wait too long, you'll have to ask the  
25 next secretary for those guidelines.

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1 CHAIRMAN STEINBERG: We're not waiting too  
2 long. We know exactly what the deadline is. We know.  
3 Let's take a break.

4 MR. CATE: Thank you.

5 CHAIRMAN STEINBERG: Ten minutes. Thank you.  
6 (Recess taken.)

7 CHAIRMAN STEINBERG: The Committee will come  
8 back to order.

9 Let me ask Senator Dutton to ask a few  
10 questions, please.

11 SENATOR DUTTON: Yeah. I just have a couple  
12 questions regarding population numbers, because it's  
13 obviously been an ongoing problem for the Senate, and  
14 we've had some changes and so forth. But when I was  
15 looking at the CDCR prison census facts and figures from  
16 2008, when you take a look at our prison population for  
17 June 30th, 1998, it indicates a total population of  
18 151,200, and then in June 30, 2008, it indicates prison  
19 population of 171,000, roughly about -- it's about an  
20 8 percent increase. The population increase in  
21 California was about 16 percent.

22 So it would seem like our rate of incarceration  
23 has actually declined somehow, either that or people are  
24 committing less crimes, because normally wouldn't you  
25 find -- if we were excessive, wouldn't we be, actually,

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1 greater than or at least equal to growth of population,  
2 or is there no correlation of population growth and  
3 inmate population?  
4 MR. CATE: I think that you have identified  
5 that over the last ten years, our population has grown  
6 by about 1 percent on average, and I do understand the  
7 population of the state has grown about 3 percent. I  
8 don't have --

9 Again, this is not an issue that I'm prepared  
10 to weigh in on what that means society-wide. I'll say a  
11 couple things, though. It is also true, speaking,  
12 again, from my role as the secretary on a correctional  
13 policy issue, we are in the middle third, as far as the  
14 number of our citizens that we incarcerate, and we are  
15 not too different than most other border states. What  
16 makes us significantly different is parole. So, again,  
17 we'll save that discussion.

18 And because it also impacts -- You know, in  
19 most other states you'll see two-thirds of people that  
20 go to prison go there for being sentenced by a court  
21 after conviction for a new crime. In California,  
22 two-thirds go back for parole violation. So that -- It  
23 also has to be figured in in this discussion of  
24 population.

25 But your facts, I think, are correct. Those

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1 are the same I've seen.

2 SENATOR DUTTON: I'm just trying to look at the  
3 trends. When we're talking about preparing for the  
4 future, whether it be rehabilitation-type programs or  
5 other, I'm trying to get a feel for what may be the  
6 norm.

7 We had law changes with regards to drug crimes,  
8 and we've seen a significant decrease in people  
9 incarcerated for drug crimes. I think almost a third,  
10 it looks like, or 25 percent. But we've seen an  
11 increase in the people committing crimes against  
12 persons, which people told me that that's kind of an  
13 indication that we actually have a more violent prison  
14 population than what we may have had before too. So am  
15 I looking at that wrong, or would that be the right  
16 assumption to draw from there?

17 MR. CATE: Our population forecasters have  
18 noted that -- as they see our population rising, it is  
19 increasing -- we will see an increase in people serving  
20 long terms for serious offenses, and that does drive  
21 population.

22 I think as we discussed, whether it's building  
23 capacity or any other issue, we should look at the  
24 long-term trends, and that's what we've suggested from  
25 the department, that let's think about where we've been

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1 in the last ten years so we get the best possible sense  
2 of where we're going.

3 The interesting thing is that when I started as  
4 the secretary, our population was 172,000, and it's now  
5 169. And the difficult thing is that I can't tell you  
6 exactly why that is, because we're seeing some trends  
7 from the local counties that we didn't expect, and the  
8 parole trends are a little different. It's a pretty  
9 complex calculus there.

10 SENATOR DUTTON: You mentioned comparisons and  
11 so forth. I've been looking at the Pew report from  
12 various years and so forth. It would seem to put  
13 California at about the midpoint for incarceration, is  
14 what I'm reading from the report. Does that sound about  
15 right to you?

16 MR. CATE: As I said, I think we're in the  
17 middle third there in a number of different studies.

18 SENATOR DUTTON: Are we going to -- I was going  
19 to talk about some of the costs associated with the  
20 juvenile program. Is that --

21 CHAIRMAN STEINBERG: You're welcome, but what I  
22 was thinking is -- let me just set the calendar here; I  
23 think it will be reasonable -- that next Wednesday we  
24 come back and we cover IT, healthcare, which I know are  
25 two issues that Senator Aanestad wants to question

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1 about, DJJ.

2 I want to, before we end today, get into staff  
3 retention, best practice in staff retention, and then  
4 what I want to do is I want to plan to come back the  
5 22nd, is that right, Nettie, of April, for follow-up  
6 conversation on some of the requests that we made, and  
7 we may make today, and vote on the 22nd of April.

8 SENATOR DUTTON: On AB 900, at what point --  
9 for AB 900 and what we're doing in regards to  
10 implementing that.

11 CHAIRMAN STEINBERG: Next week.

12 SENATOR DUTTON: Then I am done with my  
13 questions.

14 CHAIRMAN STEINBERG: Okay. Senator Aanestad,  
15 anything right now? Cell phones you want to talk about.

16 SENATOR AANESTAD: Actually, contraband, but  
17 that's for another discussion. But really my interests  
18 are healthcare and the Department of Juvenile Justice,  
19 which I've talked to you about in my office, and  
20 information technology and management, and those are to  
21 be talked about, I guess, next session.

22 CHAIRMAN STEINBERG: Next session. So -- I  
23 guess it's back to me for a moment. I know Senator  
24 Oropeza has a few other questions as well.

25 But let's talk about this issue that you raised

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1 in your statement about the difficulty of managing the  
2 department when managers are cycling in and out of the  
3 department so quickly.  
4 The staff went back and looked at Jim Tilton's  
5 comments when he was confirmed as CDCR secretary a few  
6 years ago, in which he said, quote, "The department does  
7 not yet have a formal succession planning program."  
8 Do you have one now, and, if not, when can we  
9 expect such a program?  
10 MR. CATE: I'm a little hesitant to say, but  
11 it's part of strategic planning. And I -- It's true  
12 that I think that in my conversations with Secretary  
13 Tilton, I think he would say that it's one of those  
14 things that is important, but it never seems to be  
15 urgent; and Department of Corrections is constantly  
16 caught up in the tyranny of the urgent. It's something  
17 I've seen in these last ten months. We go from fire to  
18 fire to fire to crisis to crisis, and things like  
19 succession planning, that are really important, seem to  
20 get put off to another day. That's the reason that we  
21 invest time in strategic planning even when there's a  
22 crisis.  
23 So what I've been doing -- I believe strongly  
24 in what I call a good-to-great model, which is really a  
25 model that says: We are going to first and foremost

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1 recruit as much talent as we can possibly find. Beg,  
2 borrow, or steal talent from anyone at any time and get  
3 them on board and then find out where they fit. If you  
4 want to know my strategy, that's it in a nutshell.  
5 CHAIRMAN STEINBERG: But you can't do it alone.  
6 You'll attract good people because of who you are. I  
7 just wonder -- I know you sort of grimaced a little bit  
8 when I asked the question, because it went back to that  
9 strategic-plan issue. But what would happen if, over  
10 the course of the next month, we pooled some resources  
11 here. We've got these great people from the Senate  
12 Office of Research -- Nettie is -- now she's grimacing  
13 at me -- and your folks, and we decide in the next four  
14 weeks we're going to take this off the back burner, and  
15 we're actually going to devote some people together to  
16 actually develop this part of the strategic plan. It's  
17 really important.  
18 I mean, without the sense that you're going to  
19 have a system in place that will allow you to attract  
20 and retain the best managers here, how can you implement  
21 any other part of your strategic plan? I mean, you  
22 know, the first element of success is leadership. You  
23 can't do it alone. So why couldn't we?  
24 I'll just put that out, and, Nettie, you can  
25 take the mic if you would like. It's all right. But

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1 we're asking Mr. Cate to come back with his plan, and he  
2 will try. But why can't we be of help here?  
3 Well, no answer. Okay.  
4 MR. CATE: From my perspective, I'm happy to  
5 take part. Of course we're happy to take part.  
6 CHAIRMAN STEINBERG: Well, then, I'm just going  
7 to put it out this way: What I would like for the 22nd  
8 of April is a plan, a blueprint, a blueprint as to how  
9 the department, under your leadership, intends to  
10 recruit, retain, and train staff as it applies to  
11 management, custody, healthcare, and program staff, but  
12 specifically management. And, again, we would look for  
13 some benchmarks, to the best that you can, and some  
14 timelines.  
15 And I would offer the resources of our State  
16 Senate here to assist the department in any way over the  
17 next four weeks to help get that done.  
18 MR. CATE: And we can come with our -- We have  
19 HR planning, like all agencies do, and we can take that  
20 as a baseline. What I'm hearing from you, though, is,  
21 really, we're looking for something at this executive  
22 level and how do we get the managers in place at the top  
23 level.  
24 CHAIRMAN STEINBERG: That's right. You just  
25 said, you know, too many fires to put out. I get that.

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1 I'm just saying: Okay. April 22nd. Pool the  
2 resources. Let's figure out a way to get it done.  
3 Super. All right. It's all fixed. Okay.  
4 There you go. Yes. Mr. Gomez will help us too.  
5 Senator Oropeza, a few questions.  
6 SENATOR OROPEZA: On the point of staffing,  
7 Mr. Cate, what is the status of the hiring of an  
8 associate director in charge of women's prisons?  
9 MR. CATE: Well, as I mentioned earlier, we  
10 thought we had one hired in Tina Hornbeak, and she came  
11 to Sacramento and didn't care much for, I think, the  
12 headquarters part of it and wanted to return to the  
13 institution, and for family reasons as well. So that  
14 only happened last week.  
15 SENATOR OROPEZA: Oh, it did. I see.  
16 MR. CATE: Yes. So we've got to -- I'll talk  
17 to our director, Susan Hubbard, about what her plans  
18 are. I can tell you we've talked kind of quietly about  
19 a couple of candidates already, and so I would prefer  
20 not to name them, because --  
21 SENATOR OROPEZA: No, I'm not asking you to  
22 name them. I can appreciate that.  
23 So under what kind of time frame do you think,  
24 because if you've got some candidates that you're  
25 thinking about, when would be a reasonable time frame in

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1 which to expect an appointment, assuming that the person  
2 accepts the position and doesn't want to go back  
3 somewhere else.

4 MR. CATE: Right. I've seen this happen a  
5 couple of different ways. One is there's an obvious  
6 candidate, we select that person, and we move forward  
7 right away. Another is we feel like we need to  
8 interview, and that means letting the leadership in the  
9 institutions know that this is available, and then  
0 bringing them to Sacramento, conducting interviews,  
1 making offers. That takes at least four to six weeks to  
2 do that kind of process.

3 So it can be a week if you have one person that  
4 you know should have the job, but it doesn't --

5 SENATOR OROPEZA: But if there's a number two  
6 in the process, that Tina --

7 MR. CATE: The best we can do, though, is to  
8 put an active in place during that month or six-week  
9 time, because then it has to go through the governor's  
0 approval process and so forth, as Ms. Hornbeak was an  
1 active. We can do that with much more alacrity than we  
2 can give a formal appointment.

3 SENATOR OROPEZA: So she was never appointed.  
4 She was an acting director?

5 MR. CATE: As you know, there's an appointments  
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1 process that takes place and takes some time, and we  
2 hadn't been through that entire process with her.

3 SENATOR OROPEZA: When she decided she wanted  
4 to --

5 MR. CATE: Correct.

6 SENATOR OROPEZA: So when do you think it would  
7 be reasonable to expect that there would be a -- an  
8 actual associate director for women's prisons, not an  
9 acting person, but a real person, a person who is going  
0 to be there permanently, whatever permanent is.

1 MR. CATE: Sure. It's been taking --

2 SENATOR OROPEZA: Do you have a time frame?

3 MR. CATE: For other executives, it's been  
4 taking four to six months to go through the interview  
5 process, recruitment, interviewing, then submit the  
6 name, and then have it go through all the vetting that  
7 has to happen, and then have an appointment made by the  
8 governor on the back end. It depends. If we're in  
9 times of budget crisis, we don't get appointments  
0 through sometimes in that -- you know, you kind of  
1 decide: We're going to slow down.

2 But the commitment from the governor's office  
3 on this issue has been they're going to push forward  
4 what we need in leadership to get that done.

5 SENATOR OROPEZA: I would not want to see --  
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1 That would be very disturbing, to see the position of  
2 the director, the assistant director specifically  
3 assigned to women's prisons, be held up -- be one of the  
4 choices to hold back on because of budgetary issues.  
5 That would be not such a hot idea.

6 MR. CATE: I didn't mean to imply that that was  
7 going to be the case.

8 SENATOR OROPEZA: All right. I'll take your  
9 word on that.

10 Just a couple more things. At our meeting  
11 yesterday, you mentioned how CDCR developed a risk-  
12 assessment tool. We talked about this risk-assessment  
13 tool, which helps to sort of identify the levels.

14 What I wanted to know is if that  
15 risk-assessment tool -- does it apply to females only,  
16 or is there a separate --

17 We talked a little bit about this. Are you  
18 doing a total separate risk assessment kind of process  
19 for female inmates?

20 MR. CATE: This is another area where the  
21 female inmates are actually ahead of the rest of the  
22 program in that we've been --

23 SENATOR OROPEZA: Oh, they already have one?

24 MR. CATE: Yes. The female risk assessment, as  
25 I understand it, has 25 or 30 additional questions that  
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1 the standard risk assessment does not have, and so  
2 that's in place and being utilized now. We've just now  
3 gotten the risk assessment for all the male offenders in  
4 place at the reception centers so our correctional  
5 counselors can assess them as well.

6 SENATOR OROPEZA: Okay. And then also the  
7 concept of -- which you talked about -- the community  
8 facilities, community-based facilities, and how there's  
9 a general desire, particularly from just a housing  
10 standpoint, as well as a quality standpoint in terms of  
11 what the inmates get, to transfer more women out of  
12 prison and into the community correctional facilities.

13 What are the changes in the availability of  
14 alternative treatments programs that you think will  
15 happen in the next couple of years? We know sort of  
16 what we have now, but are you -- do you have plans?  
17 What do you think it will look like in four years in  
18 terms of the community base?

19 MR. CATE: Well, as you and I discussed  
20 earlier, it's an area that I think will be greatly  
21 impacted by whether the state reforms parole or not --

22 SENATOR OROPEZA: Right, and we'll talk about  
23 that.

24 MR. CATE: And so that's probably the right  
25 thing to do.  
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1 SENATOR OROPEZA: Okay.  
2 MR. CATE: I think I can say as a whole, I'm  
3 committed to the principle that our female offenders are  
4 different, that we recognize there are not as many  
5 serious and violent, that more can be treated in the  
6 community. I can tell you I'm in favor of the program,  
7 the mothers and babies program, where courts sentence  
8 females directly to communities. I think that's a good  
9 thing. We need to encourage that more. So those are  
10 all things that I believe in.  
11 SENATOR OROPEZA: On that last note about the  
12 judges actually being able to sentence the individuals  
13 directly to the community correctional facility, for the  
14 record, why do you think that doesn't happen? I mean, I  
15 understand there are empty beds in a couple of these  
16 facilities now. There are actual empty beds, San Diego  
17 and somewhere else. Why do you think that happens, and  
18 what do you think Corrections can do about it, you can  
19 do about it?  
20 MR. CATE: I think part of it is it's kind of a  
21 low-profile program, and so there's not very many of  
22 those beds available, and so the judges don't have that  
23 information available to them.  
24 As I mentioned, I reached out to Bill Vickery  
25 at the administrative office of the courts, and we

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1 have -- need to speak to him about that issue.  
2 I think we have already, as I understand it,  
3 provided information to the courts, meaning let them  
4 know that these programs are available. But I think  
5 that's got to be the core problem. I have to believe  
6 there are women out there who could be sentenced safely  
7 to these programs if the judges were aware. That has to  
8 be the core problem here.  
9 SENATOR OROPEZA: That seems like something  
10 that could be solvable, right, through education,  
11 through information.  
12 MR. CATE: I agree. I agree.  
13 SENATOR OROPEZA: And you see that as a role  
14 for yourself, for your shop, in providing that  
15 education. And are you planning -- Do you have things  
16 sort of arranged to have those meetings and discussions,  
17 or is it -- Will it be in the next month or so, or the  
18 next year? I mean, where does it fall on the food  
19 chain?  
20 MR. CATE: I would be happy to come back next  
21 week and let you know where we're at on that.  
22 SENATOR OROPEZA: That would be super. That  
23 would be super. I think I have one more question.  
24 Oh, yeah. Actually, two more questions. One  
25 is about diversity in your work ranks. We know what the

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1 prison population breakdown is. It's 40 percent Latino,  
2 24 percent African American, 31 percent Anglo, and  
3 8 percent other. I believe that having people who look  
4 like you dealing with you can be a positive thing in  
5 this setting, and in education, and lots of things. So  
6 I personally think it's important. What I would like to  
7 know is how you feel about it and what, if anything, you  
8 guys are doing to attract and retain employees of color.  
9 MR. CATE: You know, I think our workforce is  
10 stronger to the extent that it's diversified. I think  
11 we need to try to compete with other law enforcement  
12 agencies for the most talented people, period. But that  
13 includes those -- all races and creeds here in  
14 California.  
15 I agree with you with the kind of core,  
16 underlying concept here that prisons are probably  
17 particularly important to make sure that we have a  
18 diverse workforce.  
19 Our Association of State Correctional  
20 Administrators has recently formed a committee on the  
21 issue of proportionality of how we're treating inmates  
22 in prisons based on race, so I've joined that committee.  
23 And the issues we're looking at are do we -- Do  
24 40 percent of our programs go to 40 percent of our  
25 inmates who are Latino, for example. Are our

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1 disciplinary 115s, are those issued at the same rate for  
2 all races, or do we have some disproportionality on  
3 those issues within the prisons themselves.  
4 I don't know what the racial breakdown of our  
5 staff is as I sit here --  
6 SENATOR OROPEZA: But you shared with me some  
7 of what you guys are doing about it in terms of  
8 responding to the prison population. That's really what  
9 it's about. It's not for its own sake. So, you know,  
10 that's good. I'm glad to hear it, and I hope that it  
11 continues, particularly in terms of whatever kind of  
12 outreach you all do in terms of when you go out pitching  
13 for employees -- I don't know whether you do that --  
14 include places that aren't just one specific ethnicity,  
15 would be another useful tool.  
16 MR. CATE: Of course.  
17 SENATOR OROPEZA: Okay. Thank you.  
18 CHAIRMAN STEINBERG: Thank you very much,  
19 Senator Oropeza.  
20 You know, looking at next week's items we're  
21 going to discuss with Mr. Cate here, we've got,  
22 obviously, parole, parole reform, you've got IT,  
23 healthcare, DJJ, AB 900.  
24 So I think before we take public testimony  
25 today, we should cover one more topic, and that is the

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1 issue of contraband in prisons, which Senator Aanestad  
2 will take the lead and ask some questions.

3 SENATOR AANESTAD: Thank you.

4 In our discussion this morning and also in  
5 previous testimony a few weeks ago with another  
6 candidate for a different position, the topic of  
7 contraband came up, and I just want to kind of get your  
8 sense.

9 We know that cell phones is kind of the latest  
0 area of concern, and that Senator Benoit has a bill, I  
1 believe sponsored by the department, to increase the  
2 penalty for contraband cell phones or wireless  
3 instruments.

4 However, my concern is all contraband, whether  
5 it's tobacco for bartering, cash itself, other items  
6 that can be used for bartering, or contraband that can  
7 be a safety issue. For example, at Avenal Prison just  
8 last week, they found employees bringing in pliers,  
9 scissors, et cetera.

0 Do you think -- First of all, I guess, how big  
1 is the problem? Not just related to cell phones, but do  
2 you think that the penalties --

3 Right now I understand there are no penalties  
4 other than firing the employee, unless it's illegal  
5 drugs or some substance that's illegal.

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1 Do you think that the legislature should be  
2 looking to increase penalties or the consequences of  
3 staff people who are bringing in -- and family visitors  
4 who are bringing in contraband?

5 MR. CATE: The issue of over-familiarity  
6 between staff and inmates, the issue of contraband  
7 coming into the prisons, whether from staff or visiting,  
8 or whatever source, has been a long-standing problem in  
9 every state's correctional department.

0 I think we are focused on cell phones primary  
1 right now because that is so dangerous. There is the  
2 ability to communicate between yards to say that --  
3 We've, for example, had situations where officers are  
4 searching cells in facility A, and they get to the third  
5 housing unit in facility A, and the inmates in that  
6 housing unit already know they're coming -- much less I  
7 don't even want to talk about issues of violence or  
8 escape, or others associated with this problem.

9 So I do think we need to increase the  
0 penalties. We're focused on cell phones, because  
1 they're the most serious.

2 CHAIRMAN STEINBERG: How do they get in?

3 SENATOR AANESTAD: No money for metal  
4 detectors?

5 SENATOR OROPEZA: And the employees are not

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1 searched when they go in?

2 SENATOR AANESTAD: It's harder to get on an  
3 airplane today than it is to get in a prison.

4 SENATOR OROPEZA: May I just follow up?

5 SENATOR AANESTAD: Yeah.

6 SENATOR OROPEZA: After our conversation, I was  
7 troubled by this. I kept thinking about it. And I know  
8 in our conversation you said resources were a challenge  
9 with the search of every employee, and also there was an  
10 issue related to if you only had one metal detector,  
11 that people would back up because you have 600 employees  
12 at prison, and so then they would want to be paid for  
13 the time they're waiting in line, so there are these  
14 sort of dynamics to be worked through.

15 But the more I think about it in terms of the  
16 safety and security of the prisons, it just seems like  
17 an investment that's worth it in everybody's best  
18 interest. I mean, maybe you need several metal  
19 detectors like we have here in the Capitol, you know.

20 But I really -- it troubles me a lot to  
21 think -- And I have heard of employees coming in with  
22 suitcases filled with cell phones. There's no way not  
23 to check against that right now? I mean, to me, it  
24 seems like a huge gap in the security system at the  
25 prisons.

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1 MR. CATE: We do -- Today if you walk in a  
2 prison and you have your suitcase, our officers will ask  
3 to look inside --

4 SENATOR OROPEZA: I'm talking about an officer.

5 MR. CATE: We'll ask the officers to see inside  
6 their lunch pail, or anything else. It doesn't mean we  
7 can't improve.

8 SENATOR OROPEZA: You don't search them?

9 MR. CATE: We will conduct searches, but only  
10 targeted, where we'll go to, like, Avenal with a team of  
11 people to conduct searches. Again, searching, I don't  
12 think is the right answer, to pat-down search our  
13 employees before they go in. I just don't think that's  
14 the right answer. I think there are better ways.

15 SENATOR OROPEZA: What are they?

16 MR. CATE: Well, I think we're working on  
17 several fronts at once on this issue. So we're working  
18 with the federal government, the FCC and the Obama  
19 administration, on the issue of being able to just  
20 disrupt the cell phone coverage in the prisons. The FCC  
21 is very touchy on this topic of disrupting  
22 communication, as you might imagine, but our national  
23 association is lobbying for a change in law that will  
24 allow us to flip a switch and shut down cell phones  
25 within the fenced area of an institution. So that's one

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1 strategy on one issue.  
2 SENATOR OROPEZA: That wouldn't impact the  
3 guards and their ability to communicate?  
4 MR. CATE: Our correctional officers don't  
5 communicate with cells within the prisons. They use  
6 radios and other technology.  
7 SENATOR OROPEZA: And that technology would not  
8 be affected by this?  
9 MR. CATE: Right.  
10 SENATOR OROPEZA: Okay.  
11 MR. CATE: So that's one option.  
12 The bigger picture is that many institutions  
13 are going to a metal detector/airport screening kind of  
14 process. That is a longer-term solution, in my view,  
15 because the sally ports and the areas within the prisons  
16 within which one has egress and ingress are small. In  
17 our recent tour, as you can see, there's one door that  
18 goes through there. So it would require additional  
19 construction so we would have space.  
20 And our employees should be paid if we expect  
21 them to stand in line, and it takes them eight and a  
22 half hours to get from one place to another. That  
23 shouldn't be their time to the extent that we are saying  
24 to them, "You must stand in this line." At least there  
25 are some legitimate issues to be discussed around

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1 compensation. I don't know exactly where that should  
2 go. It depends on how long it takes. If we have mini  
3 portals, it might take less time, maybe not. Maybe  
4 that's the answer.  
5 So, you know, we're doing everything. Right  
6 now, we have a pilot program on a cell-phone sniffing  
7 dog that we're training to try to address this issue.  
8 And then we have search teams. We're kind of just doing  
9 everything we can with what we've been given.  
10 SENATOR AANESTAD: Do you think penalties  
11 should be enhanced or we should increase the fines or --  
12 yeah, enhancing penalties for people who are caught with  
13 contraband, bringing contraband in rather than -- We  
14 talked this morning, right now an employee brings in a  
15 couple pockets full of cash to distribute, which is a  
16 dangerous contraband item, really only suffers the --  
17 you know, they're going to get fired, but there's no  
18 criminal penalty associated with giving cash to a  
19 prisoner.  
20 Do you think that the legislature should be  
21 looking to enhance penalties?  
22 MR. CATE: I guess there's so many ways in  
23 which an employee can have an inappropriate conduct with  
24 an inmate that it's hard to legislate them all. I would  
25 really love to start with cell phones. Right now, it's

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1 not illegal to bring a cell phone in, and so it does  
2 make it difficult to enforce. And I'd like to start  
3 there and see where we go.  
4 CHAIRMAN STEINBERG: All right. Thank you very  
5 much.  
6 Let us hear from the witnesses who are here in  
7 support of the nominee. Come on up one at a time.  
8 SENATOR OROPEZA: You can get in line. You can  
9 get in line.  
10 CHAIRMAN STEINBERG: As usual, the custom here  
11 is we ask you to be brief, if you can. Thorough.  
12 Thorough and brief.  
13 MR. BROWN: Mr. Chairman, thank you. Members  
14 of the Senate Rules Committee, thank you. My name is  
15 Chris Brown, and I am the legislative liaison for the  
16 Association of Black Correctional Workers.  
17 I would like to say that we have had many  
18 discussions with Mr. Cate regarding the issue of  
19 succession leadership, management training, and  
20 diversity in the management positions for the  
21 department. Mr. Cate has been sincerely sensitive to  
22 our issues, has been very supportive of our effort, and  
23 we are absolutely in support of his employment and  
24 confirmation as secretary to the California Department  
25 of Corrections and Rehabilitation.

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1 CHAIRMAN STEINBERG: Thank you very much.  
2 Appreciate it.  
3 MR. BROWN: Thank you.  
4 CHAIRMAN STEINBERG: Mr. Warner.  
5 MR. WARNER: Thank you very much, Mr. Chairman  
6 and Members of the Committee. It's quite an honor to  
7 have a chance to testify before you today in strong  
8 support of Secretary Matt Cate for his confirmation.  
9 The sheriffs in the State of California asked  
10 me to specifically come here and state on the record how  
11 much they appreciate, frankly, the way he handles his  
12 business by local government -- by local law  
13 enforcement. He has the ability to provide much needed  
14 continuity of leadership within CDCR in the coming  
15 years, and we think that's very important.  
16 Since his employment to office, he's worked  
17 very diligently, and daily, frankly, to build state and  
18 local partnerships with the public safety community, and  
19 we appreciate very much his outreach and his ongoing  
20 accessibility.  
21 Just a few of the areas or a number of the  
22 areas that we work with Corrections on a daily basis.  
23 SB 81, which is youthful offender block grant, DJJ  
24 realignment, AB 900, day reporting centers, joint task  
25 forces, parolees return to custody and jails, wraparound

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1 services for transitional housing for mentally ill  
2 parolees, movement of prisoners, substance abuse  
3 treatment, recovery centers, on and on.  
4 There's daily interactions with Corrections and  
5 local law enforcement, and under Secretary Cate's  
6 administration, the communication, while not always  
7 easy, is frequent, it's very open, and I can tell you,  
8 all joking aside, he has endured questions like this on  
9 a regular basis in forums like this from the sheriffs of  
10 the State of California. He shows up at the board  
11 meetings. He answers the questions he can answer; he  
12 takes the criticism; he thinks about it, says, "I don't  
13 know. I'll get back to you," and he does.  
14 I'll just close by thanking not only Secretary  
15 Cate, but his able staff, and we strongly urge your  
16 positive consideration of his appointment.  
17 CHAIRMAN STEINBERG: Mr. Warner, can you just  
18 ID yourself for the record.  
19 MR. WARNER: Yeah. Nick Warner, legislative  
20 director, California State Sheriffs Association.  
21 CHAIRMAN STEINBERG: Thank you very much for  
22 your testimony.  
23 Mr. Warren, hope you're feeling well.  
24 MR. WARREN: Feeling much better.  
25 CHAIRMAN STEINBERG: Good.

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1 MR. WARREN: My name is David Warren. I'm  
2 appearing on behalf of Taxpayers for Improving Public  
3 Safety. I feel like this is a déjà vu all over  
4 again. I've been here for Cal Terhune, Ed Alameida,  
5 Rod Hickman, Jeanne Woodford, James Tilton, and now  
6 Mr. Cate.

7 Taxpayers for Improving Public Safety endorses  
8 the nominee, and we hope that you will support him.  
9 You've raised many issues today, and we've provided a  
10 letter, including nine issues that we hope you will  
11 address.

2 We have personal experiences with many of the  
3 issues because -- as family members, because we fear  
4 contraband just as much, because contraband is a threat  
5 and danger to the inmates who have to deal with it as  
6 much as it is for the staff.

7 We hope that Mr. Cate will have a successful  
8 career, although we believe his optimism in getting this  
9 under control in the next decade is extraordinary.  
0 Thank you very much.

1 In closing, I'd like to introduce David Skaggs.  
2 He's a Protestant chaplain and president of the  
3 California Chaplains Association.

4 CHAIRMAN STEINBERG: Thank you very much.  
5 Chaplain.

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1 MR. SKAGGS: I am the president of ACCSS, the  
2 Associated Chaplains of California State Service, and  
3 Mr. Cate has been very supportive in a number of things  
4 that we appreciate. And the main reason I would  
5 encourage confirmation of Mr. Cate is because I do think  
6 that Mr. Cate has shown a real sincere desire for  
7 rehabilitation to take place and change to see come  
8 within our institutions. We support that very, very  
9 much, and we have seen that directed towards us with  
10 some things he's worked with us on, even in these past  
11 ten months. So we would strongly urge in that way.

12 CHAIRMAN STEINBERG: Thank you very much, sir.  
13 Next.

14 MS. CORBY: I don't think I'll need a  
15 microphone, but....

16 My name is Charlene Corby. I'm an  
17 administrator for the Correctional Peace Officers  
18 Foundation, national in scope and based and founded in  
19 Sacramento. It's a charity to help correctional  
20 officers in a time of need, cancer, leukemia, fire,  
21 outside the line of duty and inside the line of duty.

22 Mr. Cate, one word for him: availability and  
23 being available. I'm kind of glad his wife stepped out,  
24 because cell phones are good, sometimes they're not, and  
25 we often call Mr. Cate late at night, catastrophic

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1 event, and he is always available. So I do like that,  
2 an administrator working with your staff and getting the  
3 phone calls and taking care of his staff in a timely  
4 need.

5 And I could be available for that associate  
6 director of women. I like Sacramento.

7 CHAIRMAN STEINBERG: Very good. There's your  
8 strategic planning right there.

9 MS. PANK: Good afternoon. Karen Pank with the  
10 Chief Probation Officers, California, executive  
11 director, and our association strongly supports  
12 Secretary Cate's confirmation.

13 Appreciate you guys giving me some time here  
14 today to give you a glowing report of our interaction  
15 with the secretary since, really, day one of his  
16 appointment. And he was immediately on the phone with  
17 us. He has had to answer some tough questions.

18 We, too, are very concerned about all the  
19 issues you brought up today and will likely talk about  
20 in the future. The secretary has answered them with the  
21 caliber and just the candor that he has already here  
22 today. So those are the types of things that really  
23 demonstrate, you know, we think he is the right man for  
24 the job, has the integrity to do so.

25 You asked, Senator Steinberg, about public

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1 service and about those types of things. He really  
2 embodies those things. I represent 59 appointed chiefs  
3 who take that also very seriously and feel they act as  
4 public servants and have recognized those types of  
5 things in Secretary Cate. So for those reasons and many  
6 others, we support his confirmation.

7 CHAIRMAN STEINBERG: Thank you very much.  
8 Appreciate it.

9 Next.

10 MS. SILVA: Melinda Silva. I'm a parole agent  
11 in Sacramento, and I'm also president of the Parole  
12 Agents Association of California.

13 Since we didn't get to hear his presentation on  
14 parole reform, it's difficult to know, but even knowing  
15 that legislatively and from CDCR that we are going to  
16 look at significant changes in parole reform, I would  
17 just like to say Mr. Cate has been extremely accessible.  
18 He has come to our meetings. He has been available to  
19 our members on Saturday to answer questions. When he  
20 doesn't know, he lets us know he doesn't know the  
21 answers; but I think like everybody else has said, he  
22 has gotten back to us. He has an open-door policy, and  
23 his entire staff has been available to us. I appreciate  
24 that and look forward to parole reform discussions.

25 CHAIRMAN STEINBERG: Thank you. Next week.

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1 MS. SILVA: Thank you.  
2 CHAIRMAN STEINBERG: Very good. Appreciate it.  
3 Anybody else? Anybody here in opposition this  
4 afternoon? All right. If not, we will recess the  
5 hearing until next week.

6 I want to thank you, Mr. Cate, for an excellent  
7 discussion and, again, to reiterate a couple of items  
8 that we want to begin working on. One are genuine  
9 benchmarks and timelines for improving or increasing the  
10 numbers of inmates that participate in educational and  
11 other positive programming as part of -- to give meaning  
12 to the other "R" in CDCR. One "R," excuse me. The "R"  
13 in CDCR.

14 And secondly is to begin working diligently  
15 over the next month, not alone, but working together to  
16 actually develop this plan for recruitment and retention  
17 of your personnel. And, of course, that includes  
18 leadership training and development, not just how to  
19 fill vacancies, but how are we going to encourage those  
20 who are new to the department to work their way up  
21 through the ranks and to stay. And I know there's some  
22 constraints. You've mentioned them already. But we  
23 need to be figuring out together how we address those  
24 challenges.

25 So we will see you next Wednesday, and I think

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1 we'll begin with parole. Again, I just felt this  
2 afternoon that out of respect, we should hold off that  
3 conversation, but we will take it up next Tuesday --  
4 next Wednesday. Thank you very much.

5 MR. CATE: Thank you, sir.

6 CHAIRMAN STEINBERG: Appreciate it. Thank you  
7 to members of the public.

8 Okay. If we can -- I've got file item three,  
9 governor's appointee subject to confirmation but not  
10 required to appear, Collene T. Campbell as a member of  
11 the Corrections Standards Authority.

12 Is there anybody here to testify on that  
13 nominee? If not, take a motion.

14 SENATOR DUTTON: So moved.

15 CHAIRMAN STEINBERG: Moved by Senator Dutton.  
16 Please call the roll.

17 MS. BROWN: Senator Cedillo.  
18 Dutton.

19 SENATOR DUTTON: Aye.

20 MS. BROWN: Dutton aye.

21 Oropeza.

22 SENATOR OROPEZA: Aye.

23 MS. BROWN: Oropeza aye.

24 Aanestad.

25 SENATOR AANESTAD: Aye.

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1 MS. BROWN: Aanestad aye.  
2 Steinberg.

3 CHAIRMAN STEINBERG: Aye.

4 MS. BROWN: Steinberg aye.

5 CHAIRMAN STEINBERG: That measure passes four  
6 nothing.

7 (Thereupon, the Senate Rules Committee hearing  
8 adjourned at 3:42 p.m.)

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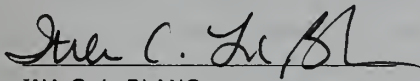


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I, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, 2009.



INA C. LeBLANC  
CSR No. 6713

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APPENDIX

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## **Background Statement of Goals**

The secretary provides policy direction and operational control for both the juvenile and adult prison systems, as well as parole. The secretary also advises the Governor and his staff and represents the administration before the Legislature, other governments, and various constituent groups.

With more than 60,000 employees, CDCR is the largest single department of state government. It is responsible for incarcerating 172,000 adults in 33 institutions and 40 fire camps and other facilities, and 1,800 juveniles in 6 facilities and 2 camps, including several adult facilities outside of California. It manages another 117,000 adult parolees and about 2,100 juvenile parolees. The mission, as stated on the department's Web site, is to improve public safety through evidence-based crime prevention and recidivism strategies.

Much of the department's management is affected by court decisions or settlement agreements - from a federal receiver who manages CDCR's health care, to a state special master who has oversight of the juvenile system. In addition, three federal judges are overseeing a case in which inmates' lawyers say that overcrowding is the primary cause of unconstitutional health care and mental health care in state prisons.

You worked with the department for four years as the Inspector General. When you came before this committee in August 2004 to be confirmed as the Inspector General, you agreed that California's prisons were badly in need of repair. You especially singled out the state's recidivism rate as the worst in the nation and a failure to properly take care of juvenile offenders.

1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as secretary of the department? How will you measure your success?

At its core, the California Department of Corrections and Rehabilitation (CDCR) is a public safety agency. To that end, the Department has historically been very adept at preventing the escape of inmates and wards and operating its facilities and parole functions as safely as possible. These are not easily accomplished missions and the state can be proud of the work accomplished by the Department in this area. Nonetheless, I have come to understand that public safety requires more of the Department than safe and secure prisons and youth facilities. Every month the Department releases approximately 10,000 to 12,000 inmates to the streets of California. Indeed, over time, almost 95 percent of all offenders will one day be released. Historically, nearly 70 percent have been rearrested within three years and almost that many return to prison. In light of these facts, I believe that the Department must do all it can to reduce the number of inmates and wards committing crimes upon release. As a prosecutor, my sole focus was preparing my cases and ensuring that those who committed crimes were found guilty

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and received an appropriate sentence. I did not look beyond my segment of the criminal justice continuum to see what was happening to the convicted once they had served their time. However, as California's Inspector General, I was responsible for evaluating all aspects of our prison system and came to understand that public safety is about both safe prisons and safe streets. While we cannot force an offender to change and many will choose not to do so, correctional research tells us that an academic program will, on average, reduce recidivism rates by 5 percent and vocational programs show a 12 percent reduction. While those percentages may seem small to some, when considered against the fact that we release upwards of 130,000 offenders a year, a small change in re-offense rates can mean thousands less offenders on our streets and tens of thousands fewer crimes committed every year. So my main goal is to make California safer – not only through safe and secure prisons, but also through effective, evidence-based programs, both in prison and parole, that will reduce recidivism and make our communities safer.

To accomplish this main goal, the Department must improve on several fronts at once. Before anything else, the Department must have a unified strategic plan – a shared vision for what it seeks to accomplish in the next three to five years, along with a specific set of plans to get there. In working on this plan with my cabinet, it has become apparent that several vital issues must be addressed as soon as possible. The first is overcrowding. At nearly 195 percent of design capacity, overcrowding makes everything the Department does more difficult. To address this problem, we must expand our capacity to hold serious and violent offenders. Accordingly, we have put forward a plan to utilize Assembly Bill 900 to build thousands of new cells to hold California's most dangerous offenders.

However, expansion is not the sole answer. We must also reform our parole system. As noted above, every year thousands of parole violators cycle through our prisons for only months at a time. California is unique in that we place almost every offender on parole. We are also unlike other states in that the vast majority of inmates who come to prison are sent for a parole violation rather than a new conviction. This has resulted in a constant "churning" of offenders through our reception centers. It is a costly practice, with little or no benefit to public safety. We must be smarter about who is on parole, who returns to prison and which offenders can be treated in our communities. Accordingly, I am presently meeting with stakeholders to hear their views on this important issue. Once armed with that information, the administration will again propose a parole reform model.

We also must continue to expand the availability of evidence-based programs for our offenders. And perhaps more importantly, we must assess our offenders to determine their criminogenic needs, whether it be drug addiction, anger management or illiteracy. These assessments can then be used to ensure that the right inmate or ward is placed into the right program for the right duration. We also must constantly evaluate these programs to be sure they are achieving results. While it takes years to see the results of these programs, if we used evidence-based programs in the appropriate manner to treat the right offender, correctional science gives us the assurance that our investment will pay off.

Similarly, we must continue to improve our health-care delivery system. A significant part of that system is currently in the hands of a federal receiver. It should be our goal to demonstrate to the court that the state is ready, willing and able to once again meet its obligations to provide a constitutional level of care to our inmates. At present, we are working cooperatively with the Receiver to address the State's systemic failing in medical care. In addition, we must continue to improve our mental health and dental programs to meet our professional obligations in these arenas. While we have been successful in recruiting more qualified practitioners in these fields, we still need to expand our clinical space in many institutions. Once a court has placed an inmate or ward in the state's custody, we carry the responsibility to ensure that they are treated ethically and responsibly. The state should also create an effective system of oversight to provide transparency and accountability in this arena.

In regards to our youthful offender population, the Department must quickly adjust to a post-Senate Bill 81 world of declining ward population and create a new business model that allows the State to meet the needs of our high-risk youth, in a cost-effective manner. This will require us to further consolidate our facilities and new staffing packages, while continuing to improve the delivery of treatment and training for our wards. We must demonstrate to the courts, the Legislature and to the public that we are providing excellent care to the wards placed in our care. If we fail, these youthful offenders will become the inmates of tomorrow. I believe we can increase the level of care, while decreasing the cost to provide that care.

Finally, we must improve our administrative infrastructure. It is apparent that the Department's personnel, accounting, budget and technology infrastructure has been neglected or under-resourced for too long. We have already begun major reforms in these areas and look forward to developing a reputation for excellence in these vital administrative functions.

**2. You are the fourth CDCR Secretary in less than four years. What lessons do you take from their relatively brief tenure that will help you guide your department? What lessons do you take from your four years as Inspector General?**

During my 10 months as Secretary, I have learned that the Department is staffed by a group of very hard-working, dedicated employees who overcome a great deal of adversity every day to accomplish a very difficult mission. I have come to rely on their wisdom and experience to inform my decisions as we set a course to make California safer through correctional excellence. I have been pleased to learn that many, if not most, employees understand that to meet our public safety goals, we must provide effective rehabilitative programming to our offenders. While opinions differ on the best way to accomplish this task, most understand that we have to break the cycle of recidivism to be truly successful. In addition, I have learned that the Department's efforts are hampered by a constant barrage of urgent matters – the constant need to put out fires. In order to address the “tyranny of the urgent” I have emphasized strategic planning and have added a few key people to the organization to assist both in handling emergencies and in making sure our actions today fit into our plans for tomorrow. Because of this reactive culture and due to the constant change in leadership, I have come to understand that CDCR is no longer assumed to be the State's leader in the field of corrections. This role has, in part, been taken over by the



courts and other stakeholders anxious to lead the Department down a path that serves their interests, to the exclusion of others. It is my goal to meet the needs of all our stakeholders, at least to the extent possible, by retaking the Department's rightful place as the leader of correctional policy and practice in California. Of course, this requires the Department to first demonstrate its ability to competently lead – a long term project that will require a team effort from the Department, the Administration and the Legislature.

When I was first appointed Inspector General, I inherited a governmental office that was slated for shut-down. While it was difficult to start from scratch, it did provide me with some great opportunities and a wonderful learning experience. The most important lesson I learned is that to be successful you have to attract and retain the most talented group of managers, supervisors and staff you can find. At the Inspector General's Office, I was able to build a great team that is largely still in place today and continues to be extremely successful. I have begun to build that same kind of team at CDCR and I am very excited about what we will be able to accomplish in the coming months. I also learned that it is vital to think long term, even in the face of short-term challenges. By planning for the next five years, we were able to build a nationally recognized oversight organization with several innovative programs. At CDCR, we are just starting to set out a five-year plan of action. While this may sound foolish to some, especially in light of the constant turnover in leadership in the past, I strongly believe that the Department will only be successful when it can set its sights on the future and use its talent and experience to lead the way for California. We are establishing that plan now, and I hope to be part of the team that will accomplish that plan for years to come.

### **Reorganization and Coordination of Responsibilities**

**On July 1, 2005, the Youth and Adult Correctional Agency was reorganized pursuant to Senate Bill 737 (Romero), Chapter 10, Statutes of 2005, into the Department of Corrections and Rehabilitation. The intention of the reorganization was to improve the effectiveness and efficiency of the departments and boards that made up the former agency.**

- 3. How would you evaluate the performance of CDCR nearly four years since the July 2005 reorganization of the department? If the reorganization's intention was to improve effectiveness and efficiency, where has significant progress been achieved and where does the most work still need to be done? Please discuss both the adult and juvenile organization levels.**

There is no doubt that the 2005 reorganization created a number of opportunities and challenges for the Department. As a result of this reorganization, CDCR went from a traditional agency-department model in which the departments were relatively independent of each other and relied on the agency primarily for policy direction to a consolidated organization in which the various parts are expected to work across functional lines. Any reorganization of this magnitude should be expected to impact an organization's productivity. It is difficult for me to assess whether this went better or worse than should have been expected for CDCR. Regardless, what I saw from



the outside was that throughout 2005 and much of 2006 the Department essentially had to stop much of what they were doing and completely recreate themselves. When I arrived in May of last year, the work was still not fully completed.

As the Inspector General, I saw it as a major accomplishment when the Department launched a real rehabilitative reform effort. The commitment was not just about putting the word "rehabilitation" in the name, but they created a high-level portion of the organization dedicated to providing inmates and paroles with an opportunity to change their lives. This did not exist before. This was accompanied by a similar change in parole operations, which shifted from an approach based primarily on supervision to one with a dual mission of both enforcement and rehabilitation.

The Division of Juvenile Justice (DJJ) is probably the best example of both the harms and benefits caused by the reorganization. DJJ's reform efforts were definitely slowed by the reorganization, which shifted many of their resources into a larger structure with multiple missions. However, more recently, I think DJJ has benefited from the Department's ability to shift resources into the division from the larger Department—resources (in terms of time and expertise) they would not have otherwise had access to.

Most significantly, from my perspective, however, the reorganization has helped to unify the policies and practices of the Department toward a central mission and away from a decentralized set of practices that tended to be more reflective of the individual warden or superintendent than the Department's mission or strategic plan. One of the areas where I saw this improvement most clearly as the Inspector General was in the area of employee discipline. Today, instead of a system dependent upon the strengths or weaknesses of the warden or superintendent, the Department has a formal, professional, objective employee discipline process. I do not mean to suggest by this example that there are not still improvements needed, but the improvements have been significant. Similarly, the institutions' policies and procedures are much more uniform now than before the reorganization. This has allowed the Department's management team to address systemic problems much more effectively.

With respect to organizational structure, in general, I think far too often the critics of any organization see its failures as related to deficiencies in organizational structure when really the failures are the result of a lack of leadership and/or poor performance. As we move forward, I would like to deemphasize the importance of the reorganization. Our ability to reform the Department is more dependent upon the quality of leadership we demonstrate and the partnerships we develop.

- 4. The reorganization of 2005 placed the word "rehabilitation" in the name of CDCR as a way to emphasize inmate and ward rehabilitation. If we were to visit an "average" Level II-III prison today, what evidence would there be of a rehabilitation emphasis that would not have existed prior to the reorganization?**

**What evidence would exist at a juvenile facility? What evidence would we find in the parole division?**

Adding an “R” to the name of the Department only matters if it is followed by consistent application of principle that public safety is enhanced by providing offenders with opportunities to change their lives and reduce their risks to reoffend. The fundamental nature of this change cannot be over estimated. As such, searching for evidence of “rehabilitation emphasis” only at the field level can be misleading because it fails to recognize what is involved in a reform of this magnitude. Four years ago, the Department did not have a plan to incorporate rehabilitation into the mission of the Department. There was not a logic model that dictated how to handle an offender from the gate to reentry—ensuring that the time in between was best spent preparing him to reenter his community. There was no infrastructure to implement such a massive reform. It is difficult to understand from the outside all of the work that goes into planning and designing a new system, especially in an environment unused to change of this type.

That said, despite the amount of time needed to plan and develop an entirely new system, there have been important and visible changes in the prisons. For example, enrollment and attendance in both educational and vocational programs has increased since 2005. Specifically, the average monthly number of inmates enrolled in traditional academic programs has increased from approximately 10,500 in FY 2005-06 to over 14,400 in the first six months of FY 2008-09. While this represents an increase of 37 percent, I am not going to suggest that this comes anywhere close to addressing our academic needs. However, the Department, under Chief Deputy Secretary Hood, recognized that there was little value in working to increase enrollment rates until we could demonstrate some significant improvements in getting enrolled inmates to class. Historically, for a variety of reasons, including frequent lockdowns and teacher scheduling issues, our participation rates have been unacceptable. We have begun to make progress. The annual participation rate (based on hours of class attended versus hours available) has increased from 42 percent in FY 2005-06 to 68 percent during the first six months of this fiscal year. We are on track to meet our goal of 75 percent by June 2009. We have seen similar increases in vocational programming. For example, enrollment has increased from approximately 7,800 in FY 2005-06 to over 9,300 this year (an increase of 19 percent). Our participation rate has increased from 42 percent to 62 percent during this time period. Additionally, approximately 85 percent of offenders have received an adult basic education test to help us determine their appropriate placement into adult basic education programs. Furthermore, I am pleased to report that we have been recognized by the federal Department of Education for consistently attaining increases in learning gains.

With respect to substance abuse treatment, as I discuss in more detail in later questions, we have increased the number of in-prison beds by about 1,200 (with another 2,000 coming online soon) and the number of community beds by 2,300 (with another 1,000 coming on soon).

DJJ has been undergoing a similarly massive reform effort. We have developed a customized risk and needs assessment, which is being completed on all wards in DJJ facilities and will soon be implemented for youth on parole. Case managers have been hired at all facilities to enhance



the treatment team (these staff are responsible for conducting the assessments, facilitating treatment team meetings, and developing case plans). All staff at the Ventura Youth Correctional Facility, where our female offenders are housed, have been trained in Girls Moving On, a gender responsive curriculum. All direct care staff in DJJ's facilities are being trained in safe crisis management, conflict resolution, and mediation. All youth have a high school graduation plan. Assisted behavior learning environments are available at every facility to provide educational opportunities for youth who are having difficulties in their regularly assigned classrooms. And an interim classification system has been implemented which houses youth who are at high risk for institutional violence separately from those who are at low risk, allowing the lower risk youth the ability to safely focus on their programming.

Certainly, in these economic times, there are many who will suggest that we cannot afford these reform efforts, especially because we have not yet rolled them out to all 33 prisons, six juvenile facilities, and multiple parole regions. These critics might suggest that instead of "wasting" our limited resources on this new model, we should instead limit ourselves to the basics of "bullets, beans, and band aids."

I believe that kind of thinking will only doom us to repeating the same mistakes we have seen in the past. I am committed to a fundamental reform of the system that will not happen overnight; it will require a long-term sustained effort. If the state is interested only in the status quo, I am the wrong person for the job.

**5. One of the earliest concerns of the legislature about the reorganization was that juvenile justice issues would be lost among adult operational issues. How do you ensure that juvenile issues receive appropriate attention with so many more adults in custody and on parole?**

I am convinced that the reorganization has been most challenging for the DJJ. The difficulties inherent in a structural reformation as significant as the 2005 reorganization were exacerbated at DJJ by a change in leadership at that time. This was made more complicated by a significant decline in population, which has dramatically changed the make-up of DJJ's population. It is also fair to say that because of the expectations around juvenile corrections, DJJ in some ways had the furthest to go in terms of reform.

The first time I walked the Chaderjian facility as Inspector General, wards were climbing over the barbed-wire fences to attack each other. I later had the horrific task of investigating the suicide of a ward who had been detained in his cell 23 hours a day. I walked that same facility a few months ago and I saw wards of different races walking together unescorted to class. Once in the classroom, I found a qualified teacher and an adopted grandparent—both of whom were engaged in discussions with the students. The day I was there, there were 60 wards who had already obtained a high school diploma or passed their G.E.D., who were working outside of the fence. Four years earlier they would have been locked in their cells instead of learning a trade because there would have been nothing else for them to do.



DJJ reform is one of my top priorities. As such, it is one of eight areas for which I receive a monthly briefing with most of the Cabinet present. DJJ's struggles have led some to recommend closing the system down all together. I think that would be a grave mistake. We should continue to emphasize keeping as many wards locally as possible. But the wards who have remained with us have so many complicated needs, I do not believe all counties are prepared to address these needs. We must continue to strive to make DJJ a model juvenile corrections agency.

- 6. Just after you were named secretary, the department created and filled several new high ranking positions to assist you. How do you balance the need for those position against, for example, the need for an administrator of correctional education in juvenile division, now vacant for four years, where we are told the salary is too low to attract qualified applicants?**

It is important to recognize that CDCR, in terms of budget and employees, is the size of a Fortune 500 company, but its management structure has never reflected this. In my opinion, the reorganization in 2005 only further complicated this problem by concentrating all of the functions within one Department and therefore directing all of the decision-making responsibilities toward one person. One of my goals when I was appointed Secretary was to create the Office of the Secretary to help drive departmental policy and strategic planning. The Secretary's Office, which includes the Chief of Staff, Deputy Chief of Staff, Undersecretaries, Chief Counsel, and Senior Policy Advisor works directly with me to overcome the tyranny of the urgent in favor of spending time on what is most important. This forces us to focus on issues that are both important and urgent. From my perspective, it was worth adding three positions to appropriately staff this effort.

With respect to their individual roles, the Chief of Staff is responsible for helping to resolve day-to-day operational issues and conflicts that cross departmental functions, i.e., issues that cannot be resolved independently within the Administration, Operations, and Program functions of our Department. The Deputy Chief of Staff is responsible for all of the oversight functions (i.e., internal affairs, audits and compliance, ombudsman, and civil rights) within the Department. It was important to me to elevate these functions within the organization. And, finally we connected high-policy analysis with research under a Senior Policy Advisor to ensure for the first time that Cabinet-level policy decisions were based on research and evidence-based decision making.

I am proud of the progress we have made in filling cabinet and executive level vacancies. We are building a very strong team.

With respect to the specific position you reference, I am disappointed that we have not been able to fill it yet. However, the ongoing external discussions about closing DJJ have not helped our ability to recruit qualified people. The fact that we have been able to fill and retain any of these positions in light of the ongoing pressure to close DJJ is a major accomplishment. I hope that in the near future our stakeholders will come to recognize the value of DJJ and the progress it has

made and we can finally put to rest the notion of closing it all together. I can also assure the Legislature that we will not rest until this position is filled with a qualified candidate.

- 7. The reorganization began in July 2005 with one undersecretary and now there are three. Critics assert that separating custody and program functions widens the gap between them and, years later, there is still confusion about who is responsible for in-prison self-help programs and decisions regarding who is placed in programs. Please comment on your organizational chart and when you believe it might be stable.**

As your question suggests, the separation of adult custody functions from adult program has been a double-edged sword. By separating out adult programs and elevating it within the organizational structure, the Department has been able to emphasize the importance of rehabilitative programs to our mission. By filling these high-level positions with people who have the necessary skill-set and experience to create a rehabilitative program model, we have been able to leverage the necessary capacity and focus that come with making the program area independent of custody operations.

On the other hand, this separation has contributed to the feeling, among some, that custody and program are distinct functions. Ultimately, I believe it is the job of every CDCR employee, regardless of classification, to ensure that our prisons and parole operations are conducted in a safe manner. It is also the job of every employee, regardless of classification, to make sure that the inmates who leave our prisons are prepared to successfully reenter their communities. It is only by understanding our mission in this way that we will ultimately be able to make the streets safer.

That said, there are certain areas where the responsibilities overlap. That overlap has led to confusion in some quarters. The best way to clarify roles in this case is to get the leaders from the respective areas together, preferably on-site at the prison, to problem-solve these issues and clarify objectives and responsibilities. We began this effort several months ago. Because of travel restrictions, we have only made it to about one-third of the prisons, but even this initial effort has helped tremendously.

With respect to the stability of the organizational chart, I believe that an organizational chart should only remain unchanged as long as it is helpful. As situations change, organizational charts should change too. At some point, if it becomes apparent that the organization would benefit from combining the program and custody functions under the same undersecretary, I would certainly consider that. However, I would not recommend doing that until I was confident that everyone from the Secretary to the managers to the line staff realizes that we all have two jobs—that the public ultimately expects us to run our prisons in a safe and secure manner and to return these offenders to their communities less likely to reoffend. Until we reach a tipping point in that understanding, I do not think we are ready to move them back together.



8. **Rules Committee has been told in previous hearings that the Associate Directors for various security levels would help foster best practices across institutions. Avenal State Prison has been using an appointment system for visitors for at least 18 months that has greatly reduced long lines and wait times for visitor processing. Why has such a seemingly successful program not been replicated at other CDCR institutions? What evidence exists of other best practices moving from institution to another?**

One of the issues that concerned me as the Inspector General was the inconsistency across adult prisons. As a result, I supported the move to manage prisons by mission. What I believe is most important is that the Associate Directors (ADs) provide consistent leadership to the prisons within their mission. This requires spending substantial time at each institution in an effort to train and mentor wardens, as well as hold them accountable to the best practices within their mission. As Inspector General, I saw too well that the wardens most likely to fail were those who did not have the benefit of a strong administrator for guidance.

Probably the best example of sharing best practices within a mission has occurred in the female offender mission, which is discussed in more detail later. The AD invites wardens to review and provide input to proposed changes and regulations, ensuring consistency across the institutions and making sure that the changes are in alignment with the Gender Responsive Strategies. We also took advantage of this structure in rolling out the COMPAS assessment tool to all of the Reception Centers. In this instance, the ADs of Female Offenders Programs Services and Reception Centers worked with Adult Programs and Enterprise Information Services to standardize the counselors' processes when completing the classification documentation needed to move an inmate from a reception center to a general population institution. Now all correctional counselors in reception centers provide a computer generated transfer document, which allows for standardization, automation and will assist in evaluating efficiencies and inefficiencies across the system, allowing the Associate Directors to more accurately measure production between reception centers.

Another example of a healthy practice of sharing "what works" is COMPSTAT, which provides all of the ADs a regular opportunity to review critical information about their institutions. This is an important way for them to identify statewide trends, vulnerabilities, and/or highlight best practices.

With respect to the example you cite regarding visiting practices at Avenal State Prison, all adult institutions were recently surveyed to determine whether they should implement a process similar to the one used at Avenal. Several institutions, including Salinas Valley State Prison, Correctional Training Facility, California Rehabilitation Center, California State Prison Solano, and Ironwood State Prison are, in fact, already in the process of implementing this or are in discussions with their Inmate Family Councils about doing so. A number of other institutions, either because of low visiting termination rates or a lack of interest by the Inmate Family Council, determined the change to be unnecessary.



## Operational Issues

**In June 2007 Kingston Prunty, then undersecretary, said at his confirmation hearing that the department would soon re-implement regularly scheduled audits to help determine how well institutions are complying with policy.**

- 9. What is the status of the audits Mr. Prunty cited? What benchmarks do you review on a regular basis to determine whether individual adult and juvenile facilities and parole offices are complying with policy by operating safely and promoting the department's mission? What red flags do you look for on a regular basis?**

As the former Inspector General, I obviously have great respect for the role of auditing and investigation to improve organizational performance. As I mentioned earlier, one of the first steps I took as Secretary was to elevate the internal auditing and investigation functions from a lower level where they were scattered throughout the Department to directly reporting to the Deputy Chief of Staff. I also asked for a one page executive summary to be prepared on each audit, which I review. All of the external audits are also reviewed by the Deputy Chief of Staff's office. I am briefed on these audits and our responses, as well.

When my auditors discover significant issues requiring immediate attention, we have a system for me to be notified and for corrective action to be immediately implemented. For example, our auditors found last summer that there were instances of parolees being discharged from parole without proper review by parole agents. Even though the audit was still underway, my auditors notified me immediately so that I could have our Parole Division take immediate action. The Parole Division did in fact take immediate action to rectify the problem and today, thanks to the audit and the Parole Division's ongoing monitoring of the issue through the COMPSTAT process, I am happy to report that the problem has been largely addressed.

From my perspective, one of the problems the Department has consistently faced is that it is in a perpetual mode of crisis management. As I suggested earlier, while we must effectively "put out fires," I am far more interested in managing to the long-term needs of the Department. As such, we have developed a monthly reporting cycle for what I see as the top eight risks and opportunities facing the Department. Specifically, these issues include: fiscal controls (including coming in within our budget, reducing overtime, position control, and headquarter reductions), overcrowding and population management, parole reform, implementation of the adult program model, Receiver governance process, DJJ reform, AB 900 construction, and strategic planning.

In addition, we have implemented a fairly rigorous peer review schedule and our COMPSTAT effort was recently given a "standard of excellence" by the Little Hoover Commission.

From my experience at the Office of the Inspector General, where we began the facility inspection program, I have become a firm believer in the adage "what gets measured, gets done." As a result, I have my staff working hard to continuously improve our ability to measure our goals.

- 10. Overtime has long been a major issue for the department. Your three recent predecessors all pledged to find ways to reduce this cost. Now that you've filled most of your custody staff vacancies, your overtime cost for custody staff nonetheless are still expected to run around \$450 million in the current budget year. What is the biggest driver of overtime, and what are you doing to try further control these costs?**

As I noted above, I have identified reducing overtime, as well as other fiscal controls, as one of my top priorities. Currently, the Department is budgeted for approximately \$100 million in overtime expenses. However, we historically spend over \$400 million, leaving the Department with a \$300 million gap that either results in a deficiency letter to the Legislature or significant cuts elsewhere in the budget. With a commitment to avoid coming in over budget this year, we have worked diligently over the last six to seven months identifying strategies to close our estimated gap of \$300 million for the current fiscal year.

I am pleased to report that in the first seven months of this fiscal year we reduced overtime by approximately \$88 million (or 41%) in adult institutions (excluding the Receiver's medical guarding and transportation, which is rising). Specifically, we have reduced overtime caused by vacant positions to a negligible amount. We are expecting an overall reduction in overtime costs of over \$80 million. However, the largest driver of our overtime is related to guarding inmates at medical appointments and in hospitals. This portion of overtime, which is driven by the Receiver, is increasing. Without this increase, we would estimate our overtime reduction for this year closer to \$110 million.

Other significant drivers of overtime costs include sick leave relief, which is likely to be impacted by recent legislative changes to the way sick leave is calculated. In the meantime, the Department has implemented a moderate approach to addressing sick leave. We have instructed our wardens to ensure that staff is aware of appropriate uses of sick leave. We have advised them to counsel staff who appear to be using sick leave for the purpose of getting specific days off. We are sure to offer staff support, such as the Emergency Assistance Program to assist them, and direct them to the FMLA regulations if they mention that the leave is protected. Only after those steps are taken, should staff be disciplined. We want to be sure to never discipline staff for appropriately using their sick leave. Based on this moderated approach, data collected through December indicates that overtime behind sick leave is estimated to be reduced by approximately \$60 million this fiscal year, which would equate to a 50% reduction.

- 11. The Rules Committee heard testimony in 2007 of 600 cell phones found at Solano Prison alone. Drugs, cigarettes, and other contraband continue to find their way into prisons. How are you addressing the problem of inmate and ward access to**



**contraband, including cell phones and illegal substances? How widespread is the problem, and are additional strategies being considered to minimize access?**

With respect to the problem of cell phones within our prisons, we are working with the National Association of Correctional Administrators to encourage the Obama administration to allow blocking of cell phone signals within prison walls. Absent the ability to use this type technology to block cell phone usage, we will continue to work with a number of internal and external stakeholders to step up our enforcement efforts to detect and confiscate cell phones and other contraband within our prison walls. Efforts such as "Operation Disconnect," which is an intra-agency operation among our Office of Internal Affairs, Office of Correctional Safety, and the Division of Adult Institutions, have been successful at interdiction and confiscation.

We also received a letter from Senator Padilla encouraging us to look into a successful strategy that has been employed elsewhere and has been the subject of nationwide press attention: the use of cell phone-sniffing dogs. Incredibly, states such as Maryland use such dogs to detect cell phones in inmate cells. My staff followed through with this suggestion and contacted officials in Maryland to find out how to get a project like that started.

However, one of the challenges we face, particularly with respect to cell phones, is that it is not a crime for an inmate to possess a cell phone or for a staff member or member of the public to bring a cell phone into prison for an inmate. The Administration continues to support efforts to make possession of, or attempts to provide a wireless communication device to an inmate or ward a crime felony. Unfortunately, current sanctions and penalties provide little deterrence for this activity.

Some other states have begun using metal detectors similar to those used by the Transportation Security Agency in airports at all entrances to the prison, including those used by staff. This is a good long-term goal; however, in addition to being costly and perhaps requiring changes to physical infrastructure, this technology would slow down the process of moving staff into and out of the institutions.

We will continue to explore all enforcement and legislative options to address what is certainly becoming an increased threat inside our prison walls.

**12. Prison gangs affect every aspect of prison life. How do you rate your gang strategies in both your adult and juvenile facilities? Are you employing any new strategies?**

As your question suggests, gang issues continue to permeate much of what we attempt to do inside our adult and juvenile facilities. Based on discussions with my colleagues in other states, I believe California has a particularly entrenched gang culture. That said, our staff works diligently on a daily basis to identify and impede gang activity within the facilities. The Department has been successful in its efforts to validate gang members in our adult institutions and remove them from the general population to minimize their negative influence. This year we are restructuring our gang validation process. This new streamlined process is expected to reduce



the time it takes to validate a gang member by approximately 30 percent. This will reduce the length of stay for these individuals in our Administrative Segregation Units and allow for a more prompt transfer to a Security Housing Unit, addressing a recent concern of the OIG. The Department does not limit its gang strategies to within the walls of our facilities. We partner with local law enforcement in combating gang activities across the State. Recently the Department, in collaboration with the Department of Justice and local law enforcement, identified gang member parolees who posed the most serious threat to public safety and placed them on GPS monitoring. There are currently 160 gang members in Sacramento, Fresno, Los Angeles, San Bernardino and Riverside counties who are being monitored by the Department by GPS. The use of the GPS monitoring of these gang members has already aided local law enforcement in at least one homicide case.

In addition, our Office of Correctional Safety does an incredible job of partnering with local law enforcement, state and federal agencies to interdict gang information. Through their monthly confidential meetings gang investigators across the state discuss active cases, suspects and gang activities. This sharing of intelligence has proven to be instrumental in solving crimes as well as preventing them.

By taking an entirely different approach to gang strategies within our juvenile facilities, we have seen a significant reduction in violence in DJJ. One of our commitments in the *Farrell* lawsuit was to establish Conflict Resolution Teams at every facility. These teams have been instrumental not only in resolving conflicts, but in helping to divert violence as well. According to our COMPSTAT data, the temporary detention count has decreased 41 percent over the past year; the Special Management Program at N.A. Chaderjian decreased 96 percent from the third to fourth quarter of 2008 and 53 percent at Herman G. Stark. According to DJJ's most recent Performance-Based Standards (PbS) report, a nationally-recognized performance measurement system DJJ committed to as part of the *Farrell* lawsuit, the rate of injury to youth by other youth was 63 percent less than the national average and the rate of assaults on staff was 79 percent below the national average. (These decreases in violence are occurring at the same time that DJJ's population is shifting to an almost exclusively serious and violent population.)

### **Administrative Segregation Costs**

Inmates can be temporarily segregated when they threaten safety and security or for their own security. In these cases, prisoners are placed administrative segregation units. The department has space for 8,878 inmates in administrative segregation at an annual cost of nearly \$130 million. In January 2009 the current Inspector General, David Shaw, issued a report in which he said some prisons "routinely violate policies and procedures intended to provide inmates with due process and timely release." He went on to report that the violations each year cost the department more than \$10.9 million.

**13. Do you agree with Mr. Shaw's assessment and, if so, what steps are you taking to reduce these costs?**

Not surprisingly, there are many aspects of the Inspector General's report with which I agree. As their report acknowledges, the constant movement of inmates into and out of administrative segregation to ensure the safety of all persons and our institutions requires vigilance, as does the need to adhere to the timeframes associated with our classification processes. It was clear in the Inspector General's audit that compliance with timeframes did not occur in all of the cases they reviewed. As a result of this finding, I have asked staff to conduct additional training, implement stricter monitoring at the Associate Director level, and conduct enhanced on-site audits of administrative segregation. At its core, this problem will be addressed through more vigilant leadership and consistent measurement and assessment.

However, I do not believe the report adequately reflected the challenges the Department faces in terms of moving inmates out of administrative segregation due to the pressures created by overcrowding and other court mandates which drive a complicated housing system. Because of these complications, the inmate might not have been moved out of administrative segregation even if the timeframes had been adhered to. It is possible that many of those cases, if reviewed during the appropriate timeframes, might have resulted in retention in ASU due to the inmate's conduct, safety concerns or because there were no beds available to which we could transfer that inmate.

### **Visiting**

Many institutions have little or no space to process visitors who, in some cases, stand outside without shelter from sun or rain for several hours, waiting to visit inmates. Visits are terminated by staff when small visiting areas become too crowded. Some institutions allow appointments to minimize wait times, but others do not.

**14. Who do you hold responsible for informing you of problems with visiting at both adult and juvenile facilities? Is someone responsible for monitoring visiting practices for consistency among prisons? Who tracks visitor processing times and the number of terminated visits?**

Whenever I tour a facility, I make a point of asking about visiting and stopping by if it is in progress. In fact, one of the reasons I try to make occasional weekend trips to the facilities is so that I can observe operations such as visiting.

In terms of day-to-day responsibility for visiting, it falls under the Director of the Division of Adult Institutions in the adult facilities and the Director of Juvenile Facilities for DJJ. For the adult facilities, there is a statewide visiting manager who is assigned to monitor visiting processes, identify concerns, ensure compliance with departmental policies and regulations, and train all visiting supervisors and Family Service Coordinators. There are clinical social workers



in the visiting room at 22 of our prisons. In addition to tracking visiting statistics, such as the number of inmates who receive visits, and the number of terminations, the statewide visiting manager is supposed to analyze reasons for terminations to identify inconsistencies or discrepancies.

In the juvenile facilities, Watch Commanders are responsible for visiting. When there is a significant problem or issue at visiting, the Watch Commander notifies the Superintendent who then notifies the Director of Facilities. The Director notifies the Chief Deputy Secretary who in turn notifies the CDCR Executive Team.

Superintendents are responsible for all activities within the facility. As for the overall operations of visiting, Superintendents delegate this responsibility to the Chief of Security (COS). The COS ensures all policies are being applied and tracks all essential components of visiting including the processing of visitors. Other areas monitored and tracked by the COS are the number of visitors who had their visits terminated or who were arrested as a result of a search for contraband.

**15. Family members can play important roles and be instrumental for a smooth transition to parolee status. Are you contemplating changes to family visiting or inmate phone call policies as part of recidivism reduction efforts?**

I agree that family members are critical to an offender's success in reentry. In fact, poor family relations are one of the criminogenic factors that put offenders at risk to reoffend. I strongly support improving CDCR's efforts in this area.

One of the key benefits of the secure reentry facilities that we are building with AB 900 authority will be their proximity to families and the possibilities this creates for family involvement. Your question specifically references changes to family visiting or inmate phone calls. At this time, we are not planning for any changes to the family visiting policies. We are reviewing a proposed change to the inmate phone privileges, which would allow inmates to call cellular phones, in recognition of the growing number of family members who do not have traditional land line service and only have cellular phone service.

As part of its *Farrell* reforms, DJJ is working closely with the nationally recognized Family Justice Institute to develop a "Family Access Policy" that captures all of the points in which families are or should be involved during their child's stay at DJJ. This initiative was piloted at O.H. Close and, after engaging families for input, policies were changed to facilitate more family involvement in the treatment and care of youth. It is now being introduced at additional DJJ facilities statewide.

Additionally, Family Councils exist at all DJJ Facilities to get input into their operations. DJJ has also fully implemented the Youth Bill of Rights that allows for additional contact between youth and families.



## Infrastructure

CDCR faces a range of infrastructure issues, from a perennially leaking gymnasium roof at Pleasant Valley State Prison to a variety of water and sewage problems. Two years ago, Mule Creek State Prison in Ione was fined \$50,000 by the state for sewage discharges. More recently, the *Los Angeles Times* reported that drinking water from two wells at Kern Valley State Prison contained arsenic, a known cause of cancer, in levels higher than a federal safety standard about to take effect. But nearly three years missing a deadline to reduce the arsenic levels, the *Times* reported, the state had no firm plans or funding to meet the level. In fact, for some period the state failed to inform staff and inmates they were drinking contaminated water. Upon order of the state Department of Public Health, the prison posted notices in April 2008. The *Times* reported Warden Kelly Harrington said, "It's not that major of an issue."

**16. Please describe your view of the seriousness of the arsenic problem. What is the status of efforts to improve water safety? What are inmates being told about the water they drink? What will you do to avoid similar problems in the future?**

A significant portion of the San Joaquin Valley has arsenic levels that were well within national standards ten years ago, but when the standards were cut in half, the arsenic levels did not decrease and therefore they now exceed those standards. It is important to keep in mind that the drinking water in the Kern Valley State Prison comes from the same source as the tap water that goes into the single family dwellings in the City of Delano. It is also important to note that the compliance order CDCR received from the Department of Public Health specifically stated "This is not an emergency. If it had been you would have been notified immediately." However, even though health officials have informed the Department that there are no imminent risks, we are committed to providing safe drinking water in compliance with the changes in drinking water quality standards related to arsenic levels. Toward this end, we have been meeting with the Department of Public Health to ensure that our compliance plan meets their expectations. Specifically, we requested and received funding in the 2005 and 2006 Budget Acts for the design and construction of an arsenic removal water treatment system at KVSP. Given the subsequent proposals to build infill at these prisons, the scale of the initial project had to be reevaluated. Since then, the Department has been working with the Department of Finance to use \$300 million from the AB 900 General Fund allocation, which was designated for these types of infrastructure improvements. Simultaneously, we have been exploring the feasibility with the City of Delano in their efforts to address their arsenic problem which could ultimately provide water to KVSP from the municipal water system after its improvements. If this alternative turns out to be feasible and timely, we will revise our funding request accordingly.

With respect to how inmates have been notified about the arsenic levels, as required by the compliance order, we have posted the approved California Department of Public Health notice, which informs inmates, staff, and visitors at KVSP that the levels of arsenic in the drinking water are above Drinking Water Standards. The notice also states "You do not need to use an alternative (e.g., bottled) water supply."

**17. Staff at various prisons in your system choose to bring their own drinking water rather than drink the water provided. Who is responsible for monitoring the quality of drinking water at your institutions? How are you noticed of problems?**

Employees at every office building—whether it is in the private sector or at the county or state level—tend to bring bottled water to drink. It is a matter of personal choice for employees to decide whether or not to drink water from their office fountains or sinks.

As indicated above, all inmates, staff, and visitors have been informed about the arsenic levels at KVSP. They have also been informed that they do not need to use an alternative water supply.

In order to avoid similar problems in the future, we have developed a centralized Maintenance Services program that is responsible for providing regional support, guidance, and standards for all aspects of plant operations, particularly with environmental standards and regulatory requirements. We are in the process of collecting plant operations conditions on important systems such as potable water to avoid future problems to the greatest extent possible.

### **Population Management**

The state's prison population grew from 56,000 in 1986 to 172,000 currently. Now, about 13,700 inmates have their beds in area -- such as gymnasiums -- not originally designed as living space. A CDCR spokesman says this is almost 6,000 beds below the all-time high of 19,600 nontraditional beds in August 2007. Partly in response to this overcrowding, the Legislature approved AB 900, the Public Safety and Offender Rehabilitation Services Act of 2007, designed to build new space for 40,000 inmates in two major phases. One significant component was to establish space in community reentry facilities for up to 16,000 inmates as they approach parole. Another was to transfer up to 8,000 inmates out of state.

**18. Have you produced a strategic plan that shows where all the new prison space will be located and a timetable for moving inmates out of nontraditional living spaces?**

Our current population is approximately 169,000. As of March 2009, there are 12,300 nontraditional beds activated, which is approximately 7,300 less than the all time high of 19,618. One of the first tasks we completed within my first 100 days as Secretary was to develop an Integrated Strategy to Address Overcrowding. For a variety of reasons—most of which are beyond the Department's control—many aspects of that strategy have been delayed. For example, the strategy was dependent upon AB 900 construction, which was delayed until last month due to the need for a legislative fix, and is now delayed due to the lack of funding available through the Pooled Money Investment Board. Additionally, the strategy assumed that the Receiver would build 10,000 beds. However, the Receiver did not receive legislative approval for the funding to build those beds. Finally, the strategy assumed a relatively



significant version of parole reform. While there has yet to be an agreement between the Administration and the Legislature about the most appropriate way to approach this, I remain committed to ongoing discussions with our stakeholders, including the Legislature to develop a safe and effective approach to parole reform.

As the situation has changed, we have to modify our integrated strategy accordingly. Some of these changes have occurred within the last 30-60 days, i.e., legislative approval of the AB 900 “fix” and ongoing developments in our relationship with the Receiver.

The Legislature has received informational copies of several of our 30 day letters. Now that the AB 900 trailer bill has been enacted, we are working with DOF to forward official funding requests for several of these projects for your review in the near future, a step required by AB 900.

There are still a number of moving pieces, but the pressure to alleviate overcrowding remains, and I look forward to working with the Legislature to develop the most effective and efficient means to addressing overcrowding without compromising public safety.

**19. What is the status of reentry facilities? When do you expect the first one to open?**

Even while we were waiting for the legislative fix to AB 900, my staff were working diligently with our local partners to continue making as much progress as possible on developing the secure reentry facilities. By the end of last year, we had siting agreements for 2,500 reentry beds. In January 2009, the State Public Works Board authorized site selection for three of the sites—Kern County, Madera County, and San Bernardino County. The Northern California Reentry Facility in Stockton is still likely to be the first reentry facility to open and it should be ready for occupancy within 30 months after we receive funding. Unfortunately, due to the bond crisis in California, it is extremely difficult to predict when new construction projects, such as these, will be able to proceed.

**Sex Offenders**

After voters approved “Jessica’s Law” many municipalities began passing their own residency restrictions. One reason frequently cited is the desire to avoid the “clustering” of registered sex offenders. Since the passage of the initiative, more and more offenders, including parolees, are registering as transient. Furthermore, the department has cancelled the contracts for treatment of “high risk sex offenders” and is significantly scaling back its housing assistance. The department is now using GPS to monitor registered sex offenders.

**20. What factors were considered when making the decision to cut treatment for high risk sex offenders?**



As this question suggests, both Jessica's Law and related municipal restrictions are contributing causes of sex offender "clustering." As available housing decreases, larger groups of sex offenders are relegated to smaller areas of permissible housing. This issue is likely to only get worse as more and more municipalities impose further restrictions on sex offender housing.

The Department has not decided to cut treatment for high risk sex offenders. However, we have delayed implementing the \$43 million in new contracts for treatment services that was included in the current year budget. Originally these delays were the result of contract protests, which prevented us from finalizing agreements with the selected providers. Then, several months ago, as part of our internal efficiency efforts, we decided to delay the full implementation of these new services until the budget year. While this decision was not ideal, it was necessary to help address the current year deficit. In making this decision, we decided not to cut any of the existing contracts and instead to allow them to continue until they expired, which for most was December 2008. Between that time and July 2009, sex offenders in need of treatment services will have access to the services of the clinicians in the parolee outpatient clinics. In the meantime, we will be preparing the contracts for new services so they will be ready for implementation in July 2009.

**21. Please explain how the challenges parole agents face in placing registered sex offenders in permanent housing has changed with the passage of Jessica's Law and additional local ordinances. Do you anticipate any impact on public safety with scaling back of housing assistance?**

I have been out on "ride-alongs" with parole agents who supervise sex offenders and I have seen the impact of Jessica's Law and related local ordinances on the ability of our agents to find stable housing for sex offenders. It is certainly more difficult now. According to a recent report by the Sex Offender Management Board, there has been a nearly 800% increase in homelessness among sex offenders since the enforcement of Jessica's Law.

Our parole agents have no choice but to enforce this law, even when it means removing parolees from stable, but noncompliant, housing. And I am pleased that we have been singled out as the only law enforcement agency in all of the state that is successfully enforcing Jessica's Law. But I do worry about the impact of this increasing lack of stable housing among sex offenders.

One thing we have done to mitigate this concern is to better monitor these homeless sex offenders. I am pleased to report that we have successfully placed all sex offender parolees on GPS, months ahead of schedule. GPS allows us to know, for the first time, where these homeless sex offenders are going throughout the day. So, while homelessness is not ideal for these sex offenders, at least they are being monitored.

As a separate matter, in recent years, the Department spent over \$20 million annually to pay for sex offender housing. These payments were not funded, so the Department has now reined in this practice and returned to its existing policy of providing assistance to parolees for the first 60 days of parole – a practice that the science and research tells us is the critical period for parole

success. By limiting the use of our housing assistance funds, as it was originally intended, we will be able to provide more parolees with the assistance they need to succeed on parole. I believe that by better using these funds we will positively impact public safety.

**22. Are you recommending any changes in policy that might assist you in enhancing public safety especially in terms of the challenges in dealing with this population?**

One of the greatest challenges we face is the ability to safely provide sex offender treatment inside our prisons. This has become such a challenge because these offenders are far too often victimized once they become known to other inmates. However, we know from the Expert Panel recommendations that sex offender treatment is an important aspect of addressing these offenders' risk to reoffend. We are in the process of looking at other jurisdictions for lessons about how to provide this treatment without imperiling their safety within the prisons.

**Program**

The Little Hoover Commission said in 2007 that program choices for inmates are limited, and that many offenders are released back to California communities with no more ability to succeed than when they arrived. Under the Public Safety and Offender Rehabilitation Services Act of 2007, the department was required to assess inmate needs for education, mental health, and substance-abuse treatment services.

In 2006, instead of criticizing CDCR's programs, the Legislature provided funding for an "Expert Panel" of corrections administrators and academics to advise CDCR on the best program strategies. Their recommendations were released in 2007.

**23. Which Expert Panel recommendations have been implemented, which ones rejected and which ones are on track for future implementation?**

The Expert Panel had a total of 46 recommendations, including 11 recommendations and 35 sub-recommendations.

According to the most recent March 15, 2009 California Rehabilitation Oversight Board, of the 46 recommendations, 33 (or 72 percent) have been completed, implemented, are partially completed, are in process, or implementation has begun (including in some cases, as part of the "proof project"). There are an additional four recommendations which require legislative action. (For three of these, the Administration has made proposals, but they have yet to be approved.) Work plans have been developed for five of the remaining recommendations; resources have been approved with implementation pending in an additional one; and one (an earned discharge pilot) was suspended for further review. There are two remaining recommendations in which action is still pending.



**24. How do you evaluate your performance in improving educational, vocational and self-help programs for inmates and parolees?**

I believe our performance in this area has been mixed. We have made excellent progress in terms of establishing policies, developing a plan, and beginning the process to roll out an entirely new model on a massive scale. Furthermore, we have continued to move forward with this effort despite our challenges with overcrowding, the State's fiscal crisis, and the fact that we had to essentially start from ground-zero in developing this model.

However, in being critical of our progress, I think we should have started to emphasize self-help programs and the implementation of what we refer to as track one (improving utilization of our existing programs) at least 12 to 18 months earlier.

While moving forward to implement the Expert Panel's to focus rehabilitative treatment on inmates who are soon to be released, we were slow to recognize the value of using our lifer population for mentoring, tutoring, and as substance abuse counselors.

Even still, I am proud of the steady progress we have made in terms of improving utilization of existing programs. Specifically, in terms of inmate participation rates we have seen increases from 42 percent to 68 percent in traditional academic programs and from 42 percent to 62 percent in vocational programs.

**25. With literacy rates in prisons at 7<sup>th</sup> grade or below, what literacy strategy does CDCR employ beyond basic classroom education that reaches relatively few inmates? What is the role of literacy tutoring and distance learning?**

To develop a literacy program for every inmate would be prohibitively costly. However, I agree with the inference that tutors and distance learning should play an enhanced role and that neither of these have been emphasized enough.

Our Office of Correctional Education has developed a Statewide Literacy Plan, which outlines our approach to increasing literacy. We have developed a database that tracks reading scores for inmates by institution (including approximately 85 percent of our current inmates). Increases in literacy are one of many areas that we are tracking through our on-site interdisciplinary facility performance reviews.

In addition, we currently have approximately 628 lifer/long-term offenders who have been trained to help other inmates learn to read. We have been working with the inmate Family Council to focus on the programming needs of long-term offenders. One of our goals as part of the Logic Model is to develop a "career track" for long-term offenders, which will be a way to expand programs such as this.

We have also made some important improvements in non-traditional academic programs, such as independent study and distance learning. In FY 2005-06, average monthly enrollment was 560



in distance learning and 678 in independent study. As of the end of 2008, enrollment in distance learning had increased to 4,505 and in independent study it was almost 5,000. (Distance learning uses media such as television, DVDs, etc to provide instruction. Independent study programs are typically provided through correspondence exchange of curriculum under the guidance of a teacher.)

In addition, enrollment in post-secondary college courses has also increased—from an average monthly enrollment of 991 in FY 2005-06 to almost 5,300 by the end of December 2008. We currently have about 80 different institutions of learning providing courses across the state.

**26. Many self-help programs have been cut back due to the budget crisis. Who makes these decisions?**

For the most part, any decisions to cut certain programs over this past year have been made by the Cabinet as a whole. This goes to back to the concept I discussed earlier about the need to build an integrated team that can help to make these types of decisions, taking into consideration limited resources and competing interests. I have been emphasizing that all aspects of the Department must work together to make these decisions.

That said, there were self-help programs that had to be suspended last summer when there was not a signed budget. These decisions would have been made at the institution level by the warden and his or her management team and would likely have been the result of not having the available coverage to support the sponsor role. We may have also had to cancel volunteer or self help programs due to program modifications due to violence or quarantine purposes.

**Substance Abuse**

**The Legislative Analyst has reported that the department has only enough drug treatment slots for about 6 percent of all inmates. To improve delivery of services, the department formed the Division of Addiction and Recovery Services.**

**27. Please comment on the substance abuse treatment programs delivered to inmates and parolees. Are there new ways you want to approach this problem?**

One of the ways in which we are changing program delivery is through the development of a facilitator-training program for lifer inmates. There are approximately 50 inmates at Solano who are currently being trained as part of our “proof project” to facilitate substance abuse treatment programs. There are also two (soon to be 12) lifer/long-term offenders at the California Men’s Colony who are receiving training for Forensic Addiction Corrections Treatment (FACT) certification. There are similar plans for providing FACT certification at R. J. Donovan beginning in spring 2009. At the same time, there are approximately 150 lifer/long-term inmates who serve as mentors in our in-prison substance abuse programs. I believe that by expanding this

type of program we can use inmates as a force-multiplier to help increase the availability of programs.

Now that we are starting to have COMPAS assessments available for a significant portion of our population, we are discovering that we do not always have the right inmates in the right programs. This is especially frustrating with substance abuse programs. One of the difficulties the Department had in the past was that it was not able, on a large scale, to assess inmate's substance abuse needs, or provide the right duration of treatment or provide it at the right time during incarceration. Once we are able to move the right inmate into the needed program for the prescribed duration, we will be much closer to meeting the criminogenic needs of all inmates. All of these issues were part of the Inspector General's report and the Expert Panel recommendations. We are incorporating this into the model we are developing.

**28. Last summer all substance abuse program (SAP) treatment in prison was cancelled because the contracts with private contractors who provide it were cancelled in the wake of budget problems. What is the status of these programs currently? How many SAP slots are currently available and how many are filled?**

As a result of the delayed budget last summer, we had to temporarily suspend approximately 29 in-prison SAP programs, but we were able to keep 11 programs serving civil addicts and in-prison parolees open. I worked closely with my Cabinet to try to mitigate the impact of these suspensions, but it was an unfortunate reality at the time. All of these programs were restored after about three to five weeks. However, I should point out that because of the ongoing fiscal crisis in addition to accounting conversions at CDCR, many of our contract providers have not received timely reimbursements. As a result, many are in a critical state and at risk of having to go out of business. We have been working with these providers in an effort to prevent this, but it is a very dire situation facing many.

As of July 2008, there were over 10,000 in-prison substance abuse program beds, which was an increase of 1,200 over the same period three years earlier. Since then, we have been in the process of bringing on an additional 2,000 beds, which will bring our capacity to 12,000 (an increase of 35 percent since July 2005). In terms of substance abuse program beds in the community, our capacity as of July 2008 was 5,600 (an increase of 2,300 or 70 percent) from three years earlier. We are in the process of obtaining an additional 1,000 beds in the community which will drive our capacity up even further.

In general, the enrollment rates for our substance abuse beds exceed 90%. (We are, however, still in the process of refining our data collection efforts so that we can track actual utilization of these beds.)



## **Risk and Needs Assessment**

Since the departmental reorganization, many CDCR administrators have referred to the goal of providing every inmate with a risk and needs assessment that would be conducted immediately upon intake and used continuously through parole. The assessment is being utilized in a new treatment model using what it calls “proof projects,” starting with one located at Solano State Prison. The notion is that inmates with 36 months or less left on their sentences will be placed in programs they need as identified by the assessments.

### **29. Are you satisfied that risk and needs are being assessed appropriately? If so, what is the timetable for implementation statewide?**

I think it is only fair to point out that the expert community is not unified on a single assessment tool. The approach we are taking, by building upon the COMPAS assessment which was initiated by the Department in the parole division in 2005, was endorsed by the Expert Panel. That said we are not satisfied with relying on a single assessment. As was recommended by the Expert Panel, we are employing secondary assessments in several of the program areas. In addition, with respect to the risk portion of the assessment, the Department worked with the leading national experts in this area and developed a validated static risk assessment that we are using to make decisions that require a risk assessment.

With respect to implementation, the risk portion, known as the California Static Risk Assessment (CSRA) has been implemented statewide. Thanks to our partnership with the Department of Justice, we are able to get an automatic download of an offender’s criminal history which auto-populates the CSRA, making it available for almost all inmates and parolees. I do not want to underscore the significance of this accomplishment. The hard work of the staff at both CDCR and DOJ who made this possible have placed the Department in a much better position with respect to being able to use an offender’s risk level to make critical decisions—something that was not possible a year ago.

The COMPAS assessment has been implemented at all Reception Centers. The new secondary assessments are being rolled out as part of the proof project (we already use secondary assessments in some areas, e.g., TABE). We are in the process of implementing ARNAT, which will make it possible to convey the assessment information in an automated format to the prisons where the inmates will be housed for the long-term. We are working with our labor organizations to implement these changes.

## **Health and Mental Health**

In 1995 the Coleman case set out five elements needed in minimally adequate prison mental health care: proper screening, competent staff, timely access, adequate medical records and suicide prevention system. In October 2005, the judge issued Findings of Fact and Conclusions of Law in the Plata case, ordering that California’s prison medical care system be placed under the control of a court-appointed receiver. The court found that the system



is “broken beyond repair,” causing an “unconscionable degree of suffering and death.” You have state recently in an interview that you believe “on the whole” CDCR is providing constitutional care.

**30. What benchmarks do you use to determine that health and mental health care are now at constitutional levels?**

Our goal is not to merely meet the minimum level required by the Constitution, but to meet what we believe is the appropriate level of healthcare, which may be beyond the constitutional minimum, depending upon the circumstances.

I toured our medical facilities in 2005 as the Inspector General. The clinics were small. Too often they were dirty. I found insufficient and poorly trained clinicians who had great difficulty in getting updated medical files. While I was the Inspector General, we began developing the concept of Medical Inspection Teams, which have since been rolled out on a broader scale. As these inspections have progressed, we are seeing the numbers rise. I believe we should be using this type of objective measure to determine if we have met the appropriate standards for medical care.

I have visited about 10 prisons in the last few months. The clinic space has been expanded; it is clean and well-equipped. The physicians are impressive in their knowledge and commitment to inmate care. Access to Care teams have been added at every prison. In fact, the Receiver has said that there is likely an overutilization of specialty care.

With respect to mental health care, the service provided to inmates has improved, but we still need additional beds and treatment space. Given the changes in the Receiver’s plans, we are working on a mental health bed plan that we will submit to the court and the Legislature.

**31. Who is responsible for reviewing medical appeals of inmates, CDCR or the Receiver?**

The Receiver has primary responsibility for reviewing the medical appeals of inmates. They have established a unit to track this process and review all medical appeals. Mental health and dental staff serve as subject matter experts for appeals in those areas.

Ultimately, however, this is one of many areas that require that the Department work hand-in-hand with the Receiver’s Office. Despite the evolution in our litigation strategy, we are as committed as ever to working cooperatively with the Receiver on these types of issues.

**32. What can be done to further reduce recidivism rate for mentally ill parolees? Are parole outpatient clinics providing drug treatment for parolees who have both a mental illness and a substance-abuse addiction?**

I am very pleased to report that we issued an RFP earlier this year for wrap-around services for mentally ill parolees. We expect to award these contracts by June 2009 and expect to be serving at least 300 parolees by this coming fall.

In terms of whether our clinics serve parolees with both a mental illness and substance abuse addiction, while we provide parolees with both types of services, our divided model mirrors the delivery of care in the larger community. We are in regular communication with both substance abuse and mental health providers and look for recommendations in ways to better serve dual diagnosis parolees.

While the parole outpatient clinics provide an important resource for parolees, we recognize that wrap-around services, such as those noted above and/or those used in mental health court, are much more likely to assist an offender in addressing his or her co-occurring disorders.

In terms of meeting the needs of all of our offenders, we currently have approximately 25,000 CCCMS inmates with some level of mental health issues. We are never likely to have enough wraparound services to meet that level of need. So we have to be dependent upon cities, counties, and families to help us provide services to the broader population, while we concentrate our limited resources on those with the most severe needs.

**33. The department recently petitioned the court to end the federal receivership. If the court were to rule in the department's favor, what steps would you need to take to once again take over the delivery of healthcare to inmates? What would you do to ensure that the department is able to provide a constitutional level of care?**

It is important to remember that at the field level, medical care is being provided by CDCR employees. These employees are supervised by regional administrators who are also CDCR employees. If the Receivership were to suddenly end, health care would continue to operate at a local and regional level as it does today. The transition would only be complicated at headquarters, where there are a number of redundancies and functions that would need to be integrated back into CDCR. For example, budget, human resources, and executive management would need to be integrated appropriately. Our staff has already begun working with the Receiver's staff to coordinate and integrate some of the oversight functions, such as Quality Management, Continuous Quality Improvement and the Professional Practice Evaluation Committee.

In order to ensure that the Department did not lose any ground in terms of the gains made by the Receiver in medical care, we would need to establish proper independent oversight and reporting and ensure that sufficient infrastructure and resources were in place.

## **Personnel and Training**

The California Highway Patrol Commissioner told this committee recently that he established a new position titled "Assistant Commissioner for Leadership Development" in response to high vacancy rates and other problems.

### **34. Who is responsible for leadership development in your organization?**

Ultimately, I am responsible for leadership development within the organization. In fact, we have been working on leadership development within our Cabinet. My Chief of Staff and I are in complete agreement in our management philosophies and are constantly working to underscore these principles in every meeting—either expressly or by example. I expect every member of my management team to model exemplary leadership practices and challenge each other to seek ways to change, grow and innovate. In addition, each of my managers is required to mentor and develop leadership talents in their staff.

Leadership development is part of the strategic planning process that we are undergoing. This is not an area of historic strength for the Department, as it has tended to focus far more on responding to fires instead of long-term planning.

We also have a contract with California State University, Sacramento for a formal leadership development course that began in fiscal year 2007/08. The 56 hour class is offered over three months and reflects the latest best practices in developing great leaders. Finally, our Ombudsman has been a great asset in this area.

### **35. What is the status of ethics training in your department?**

The Agency provides formal ethics training in a number of different ways: 1) at the basic academy, adult cadets receive 18 hours of ethics training and juvenile cadets receive 8 hours; 2) there are 2 hours of ethics training provided as part of the basic supervision training and 3.5 hours of ethics training provided in the advanced supervision training; and 3) there is a state requirement that designated staff take ethics training every 2 years and we offer the on-line DOJ Ethics course to meet this requirement.

I recognize the need to ensure an exemplary code of conduct within the CDCR culture. Because of this I work hard to model the ethical behavior I expect to see from all of my employees. I believe if leaders display principled behavior, this provides the foundation and clarity for all employees in the organization to be ethical. This has been reinforced in our recent strategic planning and leadership development activities.

### **36. Who is responsible for following up on training and determining whether it is adequate?**



This is an area that I am very passionate about. However, I also believe that it is one of the reasons that it is so important to have consistency in leadership. As long as the Department continues to turn over a new Secretary every year, issues such as this will never get addressed appropriately. As important as it is, leadership development and training rarely rises to the "urgent" category. It is always important. As I suggested at the beginning, one of my goals as Secretary has been to create an Office of the Secretary to focus on long-term planning and policy issues, such as strategic planning, which includes leadership development. In order to make any progress on this, you really need at least three years. Otherwise you continue with "fits and starts" as each new leader takes office. This is another area that I expect all of my management team to focus on as a high priority. All staff must receive training to perform their duties and be measured periodically to ensure their performance is satisfactory.

#### **Juvenile Justice Reform**

In 2004 the administration reached a landmark settlement in the Farrell lawsuit on the conditions of confinement in juvenile facilities. The Division of Juvenile Justice (DJJ) is supposed to implement a broad array of reforms, including creating smaller living units, improving education and mental health services, and bolstering safety.

In February 2008, however, lawyers representing juveniles urged a judge to name a receiver to run the system they said remained broken. And last October an Alameda County judge stated the state was "in gross violation" of court orders by taking too long to reform its juvenile prison system. But he delayed appointment of a receiver to allow you time to speed up improvements. In addition, the little Hoover Commission recently recommended that the state eliminate its juvenile justice operations by 2011. The cost per ward at DJJ is now estimated to exceed \$250,000 annually. The Little Hoover Commission also recommended consolidating programs and services into a single office in the administration and to develop a strategy for a comprehensive, statewide juvenile justice system.

#### **37. Are you satisfied with the amount of attention you are able to devote to the juvenile side of CDCR? Why or why not?**

My decision as the Inspector General to devote a large percentage of time to the audits and investigations related to CYA/DJJ should help to demonstrate how significant of a priority this issue is for me. As I mentioned earlier, I get a regular briefing from the Chief Deputy Secretary of Juvenile Justice, Bernard Warner on DJJ and *Farrell* related issues. In addition, I have been to all but one of the DJJ facilities since I became Secretary (in addition to any time I spent at these facilities as Inspector General). While I never feel that I have enough time to devote to any issue, I feel confident that DJJ has my utmost attention.

#### **38. Please describe your assessment of progress in juvenile institutions and what you intend to accomplish in the next 12-18 months, as well as the long term, to address the court's concerns. What is your role in monitoring the implementation of the**

**juvenile justice reform efforts required by the court in the Farrell lawsuit?  
Specifically, how do you track progress?**

As I mentioned earlier, DJJ reform is one of eight priority areas that I personally track on a monthly basis. As part of this effort, I regularly review the dashboards and compliance reports we prepare for the court. There are six remedial plans in the *Farrell* lawsuit with almost 6,000 requirements. Of these, we have been found by the court experts to be in substantial compliance in over two-thirds of the items.

Partly because of my frustration with our difficulty in conveying our successes to the court and other external stakeholders, shortly after I became Secretary, we decided to take a much more active approach to monitoring the *Farrell* lawsuit. As a part of this effort, we have identified a number of ways in which the remedial plans conflict and we are working with the court experts to resolve these conflicts.

I have asked Chief Deputy Secretary Warner and his management team to develop a new business model for DJJ aimed at reducing the cost per youth at DJJ without compromising our mission. Over the next 12-18 months, DJJ will be refining and implementing this new business model. We will be working with the court to bless this effort, which in some cases may require adjustments to some of the remedial plans.

While it is less objective, I also want to note, as I mentioned earlier, that I have already noticed a tremendous cultural change at DJJ. I described a recent visit to N.A. Chaderjian as an example of this, but it is evident at other facilities and parole offices as well.

**39. What specific changes are you directing to reduce costs at DJJ, and what is your time frame achieving these changes? What are your specific plans and goals with respect to continuing the operation of DJJ facilities?**

As noted in my previous answer, we are in the process of developing a new business model for DJJ. This effort will require the closure of an additional one or two of DJJ's facilities. In addition, we are conducting a comprehensive staffing analysis, including a review of the staffing packages approved as part of the *Farrell* reforms to determine the most appropriate, effective, and efficient staffing levels for DJJ.

As part of this effort, we will also be exploring the possibility of establishing prototypical living units within existing facilities to provide an opportunity to implement some much-needed changes to DJJ's physical infrastructure.

**40. Are you satisfied with the way juvenile justice is currently organized in state government, especially with respect to the reorganization done in 2005? What could be done to improve oversight of juvenile justice programming- including both custodial and noncustodial sanctions- at both the state and local levels?**



As I referenced in an earlier question, ultimately I believe that DJJ has had the most difficulty in thriving after the reorganization. That said, ultimately the most important issue is leadership. By saying this, I am not casting blame on my predecessors. I intend instead to suggest that if we can, once for all, align the administration, courts, and Legislature with a plan to move forward, it can be done as part of almost any organization.

In recent days, many core stakeholders have questioned whether DJJ should be removed from CDCR. I can assure you that I have thought a great deal about this. In fact, I asked my staff to conduct a full analysis of the possibilities recommended most recently by the Little Hoover Commission. We went as far as preparing alternative scenarios. While I see the advantage to serving youth locally, ultimately, I came to the conclusion that the wards who remain under our jurisdiction (particularly since the enactment of Senate Bill 81) have tremendous needs, which I do not believe can always be met locally. That said, I will be the first to affirm that we need to continue striving to implement these reforms more efficiently and effectively.

**41. As the juvenile population has dropped below 2,000, you have closed several institutions, Are more closures planned? If so, where and what is the timeline?**

As I indicated above, I anticipate having to close another one to two facilities over the next couple of years. We are in the process of analyzing the population needs. I am committed to carrying out this process in a responsible manner, ensuring continued services to youth, providing options for displaced staff, and involving local communities to the extent possible.

**Female Inmates**

CDCR has developed a set of guidelines known as gender specific policies for female inmates. The female master plan for 2008 said, "The organizational capacity for implementing changes envisioned for women's programs and services is severely limited, particularly with regard to staff professionalism and skill sets relevant to the CDCR rehabilitation mission."

**42. What are you doing to maintain and refine gender specific policies for female inmates and to train staff? Gender responsive meetings have been cancelled due to the budget crisis. How do you ensure gender responsive policies are being implemented?**

One of the benefits of the reorganization and the creation of the Associate Directors was that it allowed the Department to consolidate the adult female institutions under one mission. This has enabled us to progress with our gender-responsive strategies in a much more effective and efficient manner than would have been possible under the former regional structure.

As you are aware, the Department has established and intends to maintain a Gender-Responsive Strategies Commission (GRSC) which is managed by the Female Offender Program and



Services (FOPS) Associate Director. The GRSC, comprised of external stakeholders, subject matter experts, and CDCR staff, played a critical role in developing the master plan you reference in your question. Due to budget constraints and travel restrictions we have had to cancel some of the GRSC meetings this past year, but one is scheduled for April 2009, and we plan to continue with the subsequent meetings.

FOPS is in the process of developing an action plan to ensure the implementation of the objectives outlined in the Master Plan. Implementation of the Master Plan, in its entirety is contingent upon the availability of appropriate funding. A workgroup comprised of Wardens at the female institutions have developed and revised several policies to make them gender responsive. We continue to monitor all policies related to female offenders to ensure they are gender responsive.

With respect to training staff, a 32-hour curriculum was developed in January 2008. All three female institutions began training that month. In August 2008, the 32 hour training was provided to CDCR and contract staff at the Leo Chesney Community Correctional Facility for female offenders. We are planning to hire a retired annuitant to develop the remaining 8 hour communication training curriculum in 2009, which will complete the mandated 40 hour gender responsive training.

While we had to delay the training this year due to budget constraints, the training has recently resumed in all three institutions.

**43. At various times in recent years, the administration has suggested transferring nonviolent, minimum security female inmates into community facilities. What is the status of these proposals?**

As your question suggests, over the years the Department has proposed transferring lower-level female offenders into community facilities. We currently administer a number of community-based treatment programs for female offenders, six of which allow nonserious, nonviolent offenders to reside with their children while completing the program. The first 25 bed Female Residential Multi-Service Center, which opened in Sacramento in 2008, provides community transitional services for female parolees. And, the Leo Chesney Community Correctional Facility houses 305 nonserious, nonviolent female offenders in a residential program that provides trauma informed substance abuse services.

This past year, we received funding to establish 1,275 Female Rehabilitative Community Correctional Centers. In August 2008, we released an RFP to proceed with this effort. In the meantime, however, the State's fiscal crisis led the Administration to propose a significant parole reform that, if enacted, would have eliminated parole for all non-serious, non-violent, non-sex offender registrants. Given the potential impact that this proposal would have had on reducing the eligible population of female offenders, we did not believe it prudent (or fair to the prospective bidders) to proceed with the RFP process until there was greater clarity about the likelihood of such a significant parole reform. While the Governor's proposal was not approved

by the Legislature, we are still in the process of determining how the Department will implement the \$400 million veto that we received, and must proceed with the assumption that some form of parole reform will still be implemented.

Despite this uncertainty, the Department is proceeding with a 75 bed facility for female offenders in Bakersfield, which is scheduled to activate next month. In the meantime, we will continue to evaluate the long-term viability of additional beds.

## **Parole**

**Inmates released to parole receive \$200 and are expected to report to a parole agent within a few days, sometimes at a distant location. You stated that CDCR releases approximately 10,000 inmates each month. Since the reorganization, CDCR has spent millions in providing earlier and more accurate information about parolee risks and needs, including the employment of one or more Parole Agent IIs inside institutions.**

### **44. How do you evaluate this effort to gather more data about inmates about to be released? Is it the right approach? If so, is it achieving recidivism reduction?**

As part of our overall plan to improve rehabilitative programming and reduce recidivism, we are gathering risk and needs data about inmates in a number of different ways.

I believe that your question is specifically in reference to the COMPAS assessments, which the Department has been conducting at some level since 2005. Since then, we have assessed over 150,000 inmates and parolees. As I described earlier, we are now conducting COMPAS assessments on every specified inmate at the Reception Centers. When this assessment process is fully implemented, we will be able to automate this data and use it to develop a case plan. Currently, at our proof project, the counselors are able to use the data from COMPAS to assist in making program assignments. In the aggregate, we can use this data to help us determine the general criminogenic needs of various portions of our population.

For a more detailed understanding of an offenders' need in a particular area (i.e., education, substance abuse, etc.), we will be utilizing secondary assessments, as recommended by the Expert Panel. We have selected these assessments and are about to begin using them at the proof project.

Finally, our static risk assessment, the California Static Risk Assessment (CSRA), which was developed by national experts and validated on California's population was fully implemented late last fall. The CSRA allows us to identify the risk to reoffend (low, moderate, or high) of all current inmates and parolees. This assessment is a critical component of the Parole Violation Decision Making Instrument (PVDMI) which we began piloting last fall to assist parole agents in making appropriate decisions in applying sanctions to parole violators (based on risk level and severity of the violation).



To the extent that your question seeks to know whether or not these assessments are reducing recidivism, our efforts today to provide effective rehabilitative treatment will not become apparent for at least three years, i.e., after these offenders complete the programs, leave prison, and fail to return. However, we know from the research provided by the experts that tools such as this are critical to realizing any reductions in recidivism.

**45. How do you account for the extremely low level of female parolee beds?**

The answer to this question is similar to the one earlier about transferring lower-level female offenders into community beds. Last April, the Department activated its first Female Multi-Service Center for female parolees. Increasing the number of these beds is part of the Department's Master Plan for Female Offenders. In fact, toward that end, we released an RFP in May 2008 for an additional 250 beds. These beds were tentatively scheduled to be activated in January 2009. However, because of the ongoing uncertainty about parole reform and its potential impact on significantly reducing the need for these beds, the Department has delayed making any long-term commitments in this area. At this time, we intend to resume the RFP process in the budget year, but we will obviously have to reevaluate this if a significant version of parole reform is implemented.

**46. What parole reform do you recommend, if any? What is your timetable? Please be specific**

I am committed to implementing parole reform. California is one of only a few states that places almost every offender on parole. At the same time, we return offenders to prison at almost twice the national average. This churning of low-level offenders through our prisons has led to significant overcrowding in our reception centers. Essentially, this revolving door provides us only enough time to identify their criminogenic needs, but not enough time to address them. I have supported a number of parole reform efforts. We have begun implementing certain aspects administratively. For example, our Parole Violation Decision Making Instrument (PVDMI), as I described earlier, uses a risk assessment to ensure that parole agents are returning the right (i.e., higher risk) parole violators to prison and placing the lower-risk violators in alternative sanctions.

In terms of other specific reforms, we are continuing to explore versions of direct and earned discharge among certain non-serious, non-violent populations. I remain committed to working with the Legislature and other stakeholders to identify a solution that makes our system more effective without compromising public safety. These reforms will be presented as part of our package of proposals to achieve \$400 million in savings this spring.



## **Board of Parole Hearings**

The department reorganization established the Board of Parole Hearing that exercises jurisdiction over inmates serving life terms under the Indeterminate Sentence Law, state prisoners serving specified terms of less than life, and those sentenced to life with the possibility of parole. At hearings when inmates are reviewed for the suitability of parole, they are often advised to enroll in a specific prison self-help program, such as anger management or a prison education program. The board hearing process has recently undergone a major change because of the November 2008 passage of Proposition 9.

**47. How is the new law impacting the prison population, and what do you project to be its long-term impact on the number of inmates in the system?**

It is still too soon to project the impact of Marsy's Law on our inmate population. Not only are significant aspects still facing a legal challenge, but it could take several years before any changes would be seen in the population numbers.

**48. How do indeterminate life inmates fit into your rehabilitation model? What programs are available for them if priority is to be given to the large number of inmates being released in three years or less?**

Lifer and long term inmates definitely fit into our rehabilitation model. First, the evidence shows that prisons are safer when offenders are meaningfully engaged in programs or activities. This is particularly relevant for long-term offenders because they can play such a critical role in influencing the behavior of other inmates.

The challenge for integrating these offenders into the rehabilitative model comes from the fact that, as the Expert Panel noted, when there are limited resources for rehabilitative services, they should be directed toward offenders who are most likely to return their communities in the near term. However, we do not want to implement a model that excludes longer-term inmates. Therefore, in our proof project, we have adopted a "do no harm" approach, which means that we will not remove longer-term offenders from their assigned programs (unless this program is contraindicated, i.e., a non-substance abuser in a substance abuse program).

In addition, we are designing "career tracks" for lifers and offenders with longer lengths of stay. We are modeling this idea at the proof project site with a Certification Program at Solano, where lifer inmates will be able to earn counseling certification after going through an intensive certification program. They will then be trained and certified to provide substance abuse counseling and mentorship to SAP participants at Solano. Also, as I mentioned earlier, we have over 600 long-term offenders trained as tutors. We will continue to work on expanding both of these options and others like them for the long-term offender population.

**49. Please describe the process of communication between prison staff and the board on the type and availability of programs for life-term inmates sentenced with the possibility of parole. What role do you play?**

The Board of Parole Hearings and the Division of Adult Programs have been making concerted efforts to improve communication across organizational lines. As a result, Commissioners are supposed to be provided with a master list of all available programs, including updated information, when they arrive at an institution so they are aware of which programs are available before making their recommendations.

Commissioners are also encouraged to visit academic, vocational, and substance abuse programs to learn more about these programs.

**To: The California Senate Rules Committee;**  
**% Nettie Sabelhaus, Appointments Director**

**From: Collene (Thompson) Campbell**

**Dear Chairman and Committee Members:**

**I thank the Senate Rules Committee for your consideration of my appointment as a Corrections Standards Authority Board Member.**

**On the following pages is the list of questions submitted to me. Each question is followed by my brief response to your request for information regarding my goals, my perception, my knowledge and ability:**

*Collene Campbell*

*1. Please provide a brief statement of your goals. What do you hope to accomplish during your term on CSA? How will you measure your success?*

**I hope to achieve deeper concerns with greater consideration and a constant effort for improved public safety. I will measure my success by accomplishing a lower recidivism rate by released inmates.**

**To respond directly to the questions, I believe, it is important for the Senate Rules Committee to be aware that I am not a government employee, nor am I on anyone's payroll. The time I serve on commissions and boards is totally my donated personal time. I am extremely dedicated to improving public safety. As one of the hardest hit crime victims in the nation, having three immediate family members murdered in two separate and unrelated crimes and with the investigation and trials covering a combined quarter of a century, I have been saturated in the field of crime. These personal losses and experiences have given me an in-depth education of crime and the sad knowledge that many offenses are caused because of recidivism.**

**Admittedly, I come from a very different education and one that no one would choose to endure. I have experienced and learned a great deal working with tens of thousands of victim and their families, plus law enforcement. Hopefully, with my 'hands on' education and deep commitment, I can help prevent others from suffering from crime and evil. I believe many crimes could be avoided with proper and timely educational programs during incarceration, plus extensive evaluation prior to release.**

**Senate Rules Committee**

MAR 10 2009

**Appointments**



2. *What lessons do you bring from your experience as a member of the Commission on Police Officer Standards and Training, as well as being a longtime advocate for victims' rights?*

I have worked with the POST staff and commissioners to help develop unique training. As one example: I worked with POST to produce a comprehensive DVD to help victims to better understand all segments of the justice system and how to more effectively work with law enforcement to bring true and swift justice, which saves time of law enforcement. In the DVD, I brought forth all perspectives, including defense attorneys, public defenders, judges, prosecutors, victims etc. to expose the rights of the accused and their victim. My many years of experience serving as mayor, a city councilman and planning commissioner may have played a role in helping the CSA board and staff to realize the many problems instituting and bringing to reality correctional facilities that was signed into law in 2007., plus the new jails, reentry facilities and juvenile detention centers. Sadly, it takes an extraordinary length of time to obtain rights to build on the land and the many permits in crowded cities and counties. Because of time restraints, pulling the money from these facilities is not the way to get our jails, reentry and juvenile facilities built. Hopefully, I can bring better understanding and knowledge regarding the length of time it takes to get approval on these facilities, instead of penalizing the counties that are fighting the bureaucracy to bring forth new facilities. My many years in city planning and city councils will hopefully give a better understanding of the problems, instead of removing the opportunities for these facilities in highly needed areas. In addition, as the daughter of a captain on the Alhambra, CA Police Department, I grew up respecting justice and understanding the huge job and need for dedication of law enforcement officers. I also sit on the Board of the National Institute of Corrections (NIC).

3. *What training did you receive to help you understand the various responsibilities of CSA? How long did it last?*

Working with victims, I have long observed the Youth and Adult Correctional Agency and the Board of Corrections. However, the only formal training I received after being appointed to the board was indoctrination for about two and half hours by members of the CSA staff that worked diligently to "bring me up to speed". The most recent executive director came to my home where we had an in-depth two hour conversation. I have asked numerous questions of staff members.

4. *The CSA board meets every other month. Is this often enough for the board to carry out its increasing number of missions? How do you stay informed of CSA's activities?*

**In most cases it seems that the CSA Board meets often enough to receive reports and information from the CSA Staff. It appears to me that the Board must trust the Executive Director and staff to report problems, successes and the necessity to make changes for improvement. I do believe we receive adequate information to help the board make the necessary decisions and staff has been available for questions.**

5. *What, in your view, should be CSA's top priorities? If CSA does lack resources, how will you prioritize projects and activities?*

**My top priority would be concern for public safety by providing appropriate early programs. We must be ascertain as possible that when an inmate is released he is carefully evaluated, assuring he is both capable and desirous to be a productive citizen. That inmate must also know there are bad consequences if he does not follow that "honest" road.**

**NOTE: I feel it is appropriate for the Rules Committee to be aware that our only Son was murdered by an early released inmate from the California prison system and the second killer was on a work furlough program. Therefore, along with many others, I truly understand both the importance and the consequences of suitable inmate training and evaluation prior to release. A question that should always be asked, "Would I want this inmate released near my family?" I also believe it valuable that we set the standard that all inmates should be productive and not have things handed to them unearned. It is important that we recognize and "act on the fact" that on July 1, 2005 CSA was also given the additional responsibilities of setting minimum standards for state correctional facilities.**



*6. What is the status of this part of AB 900 Implementation? What process was used to identify counties for AB 900 jail funds? Specifically, please describe the mental health and substance abuse facilities that have been established in those counties that are scheduled to receive these funds. What role have you played?*

To date, I have played no role. However, as a person that has served as mayor and on many boards for cities, state and for the federal government I understand the extremely long process of obtaining permits and I feel strongly that a county's eligibility should not be eliminated because their county or city was unable to meet the time standards. Obviously, the most crowded counties and cities are the ones having problems obtaining land use permits and approval. As a side note, I believe it is important for members of any state board, commissions, city councils, planning commissions to meet and know their fellow members and to be able to recognize knowledge and expertise in different areas of our responsibility, thereby developing a better working team. We have not made time to acquire this type of knowledge because of time restraints.

*7. CSA staff says there is another \$160 million to be awarded. Please explain how this process will work. Will counties still need to agree to build reentry facilities in order to receive any of the \$160 million?*

Actually the amount is 164 million to be awarded. It will be distributed by the Executive Steering Committee. Building reentry facilities is part of the agenda.

## **Standards**

The reorganization of 2005 established a January 1, 2007, deadline for CSA to set minimum standards for state correctional facilities. However, several board members previously have indicated that the board does not have the resources to meet this goal.



8. *Please describe the current status of this effort and what steps have been taken to obtain funding and staff to fulfill this part of the CSA mission.*

**As a new board member it appears that CSA staff is faced with a tremendous challenge to fulfill, what seems to be, an under-funded mission. The 2005 reorganization did not provide sufficient funds or personnel to accomplish or allow for the expanded service. CSA's administration is meeting with CDCR and attempting to address the short fall as related to CSA's responsibilities.**

9. *How is the board addressing other responsibilities, such as spelling out the duties of correctional officers and other correctional jobs or validating the test given to correctional officer applicants? What is the time frame for completing these duties?*

**Staff has routinely supplied information and updates. However, I have not been on the CSA Board long enough to obtain and absorb information and ask detailed questions. It is my understanding that this type of information will be on line by Dec. 2009 or early 2010.**

10. *How often does your staff inspect a county jail or juvenile hall? Do they make surprise visits? Do you believe the number of visits is sufficient?*

**Penal Code Section 6031.1 requires an inspection every other year which the staff adheres to. They do not give surprise inspections. If resources permitted, I would be in favor of more frequent inspections.**

11. *Are you able to personally visit facilities and familiarize yourself with conditions? If so, what have been your findings? If not, how do you learn about these issues?*

**I am a new CSA board member and on a fast learning curve. Since CSA schedules meetings in prison facilities, I expect to learn much more in the months to come about facilities and conditions. I have been inside of prisons during two of the CSA Board meetings. During my years on the National Institution of Corrections (NIC) Board, I have been in and observed numerous federal prisons.**

12. *Do you believe the authority has sufficient power to ensure that needed changes are made after inspections? Do you need additional enforcement tools?*

**As a new board member I am unable to adequately and honestly answer this question. However, I certainly believe the authority needs ample power to ensure that the facilities are operated properly in order to obtain the critical results that are desperately needed for rehabilitation and public safety. They must have the power and authority to successfully complete their very tough and critical mission.**

### **Education Requirements**

Among many other requirements, CSA is responsible for ensuring the education of minors in county juvenile lockups and the compliance of local officials with state regulations. As part of their inspections, authority officials are supposed to determine if minors are enrolled in classes within three days of admission, check for minors who are kept out of class for disciplinary reasons, and ensure there are enough teachers.

13. *What oversight do you provide to ensure the inspections are complete and accurate?*

**The CSA Board does not provide direct over-site. The Board relies on staff that is very diligent about submitting information and/or answering questions.**

14. *What role should CSA play in ensuring better educational opportunities for the incarcerated? How do you ensure compliance with applicable codes of Title 15 of the California Code of Regulations governing the Department of Corrections and Rehabilitation? What is the appropriate action for the authority to take when it finds that a county is not meeting its obligation to provide adequate space for classes?*

**Better education is essential. CSA inspection is critical in auditing determining the compliance and making certain the facilities are providing the educational programs that are mandated by the State Education Code and County Board of Education policies. To ensure compliance, after a report is supplied and it goes through the process, the county has 60 days to submit to the CSA a corrective action response. If the county fails to correct the compliance issue within the time frames, the county will be required to come before the CSA Board.**

**SB 81—The Juvenile Justice Realignment Act**

*15. Have any counties applied for these funds? What is the status of those applications?*

**I understand that this information will be on line by March 19, at which time it will be evaluated and conditional awards will be made.**

*16. What steps has CSA taken to conduct its increased oversight responsibilities due to the passage of SB 81? How are you involved? What is your understanding of the purposes for which these funds may be used?*

**SB 81 was amended. Many issues need to be worked, clarified and straightened out.**

*17. Previous appointees have voiced concerns about whether adequate resources are available to fully implement these changes. Do you share those concerns? If so, please explain.*

**Yes, I do share these concerns and in the short time I have been on the CSA Board, I have not seen action to correct the problem. I have seen nothing being done.**

**Grant Administration**

The authority awards a variety of law enforcement grants.

*18. What oversight does the board perform to ensure that funds are being spent on the stated purpose of grants? How does the board determine whether programs are achieving desired results?*

**The CSA Board has charged and assigned staff with consistent monitoring of the fiscal and programming programs.**

*19. Given that some board members represent local agencies or other entities that may be eligible to compete for certain grant funds, how does the CSA board protect against potential conflicts of interest?*

**As per any conflict of interest situation, it seems to be closely scrutinized and monitored by the entire CSA Board. The procedure seems O.K.**



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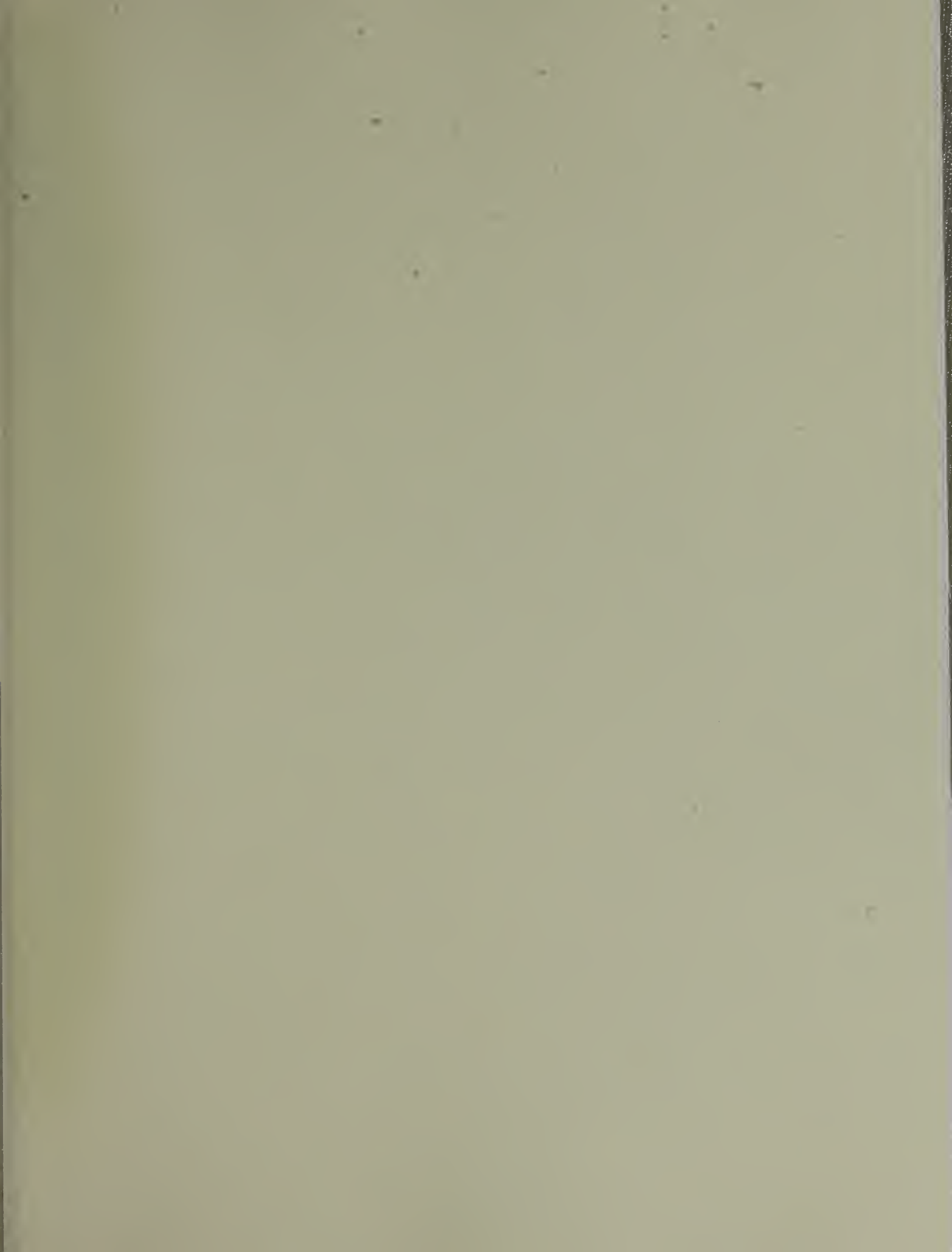
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Reported By: INA C. LeBLANC  
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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

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HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

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WEDNESDAY, APRIL 1, 2009

1.39 P.M.

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Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713

APPEARANCES

MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

DAN SAVAGE, Assistant to SENATOR CEDILLO

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

MATTHEW L. CATE, Secretary, Department of  
Corrections and Rehabilitation

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**PROCEEDINGS**

CHAIRMAN STEINBERG: Good afternoon, everyone.

The Senate Rules Committee will come to order.

Please call the roll.

MS. BROWN: Senator Cedillo.

Dutton.

Oropeza.

SENATOR OROPEZA: Here.

MS. BROWN: Oropeza here.

Aanestad.

SENATOR AANESTAD: Here.

MS. BROWN: Aanestad here.

Steinberg.

CHAIRMAN STEINBERG: Here.

MS. BROWN: Steinberg here.

CHAIRMAN STEINBERG: Very good. We have a quorum. I believe Senator Cedillo is absent today. He'll be here. Never mind. I retract that statement. We're waiting for Senator Dutton as well.

Let me welcome back Secretary of CDCR, Matt Cate. Please come on up. We appreciate very much you coming back. I know you are a busy man. We're sensitive about your time, but, as we said last week, this is a very, very important process, and, you know, hopefully, in the end -- Let me just state one of my

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motives and goals here.

Hopefully, in the end, we can help you by pushing in some areas that, you know, may be difficult to push when you're, you know, a member of an administration. So I'm not prejudging the outcome here, but that's certainly one of my motives.

MR. CATE: Thank you, Senator. My pleasure to be here.

CHAIRMAN STEINBERG: Good, good, good.

Last week, just to review, we did request more detail, not for today, but for the 22nd of April, on in-prison programs, particularly, literacy, and leadership development, and succession planning. And we asked by the 22nd of April that there be some specificity around timelines, benchmarks, expansions, resources needed, so that together we have a road map to be able to improve in these areas and also to be able to, as we talked about last time, replicate best practices.

Today we want to cover a number of areas: the Division of Juvenile Justice, AB 900 and infrastructure, courts and litigation, parole, and information technology.

Why don't we begin, without objection, with Senator Aanestad, who will take the lead on the

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information technology area.

Senator Aanestad.

SENATOR AANESTAD: Thank you, Mr. Chair, and welcome again, Mr. Secretary.

MR. CATE: Thank you.

SENATOR AANESTAD: One of the things that I've noticed in all of the different parole hearings that we've had with various members is that they're still working with banker's boxes full of inmate files and copious amounts of paperwork.

I know that in my hospital system, now when I go in to see a patient, all there is is a computer -- there's not even a patient chart anymore -- which allows, then, the dissemination of that information between various parts of the hospital. That patient's chart can be accessed from my office. It can be accessed, actually, from my office on the Senate floor here, if I so desire.

What kind of procedures or policies are -- do you see in place to try to modernize the tracking of inmates, putting their records on the computer so that you won't have as many errors and will have a more seamless ability to follow them through wherever they go?

MR. CATE: Yes. Well, well before I was

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appointed, the administration identified the problem that you've stated today. One of the main concerns we have with our current paper system is that ideally, each inmate or offender -- well, put it this way: The ideal system is for each part of the process to be able to access the inmate's file, and right now, as you pointed out, if an inmate's being ready to parole, the parole agent can't see the file, if the file is at the prison, without going to the prison. And, similarly, the mental health professional can't view it, et cetera. The list goes on of people who really need to see that file that are part of that management treatment team.

And so long before I was appointed, the administration began to invest in what's stalled the strategic offender management system, or SOMS for short, which would take our current paper files, what's called a central file, some of which are as long as this table, and convert those -- scan them and then convert them to a paperless system. Obviously, with 170,000 inmates and 125,000 parolees, it's an enormous process. So much work has already been done.

Last week the department announced that we were -- we were -- we had the intent to provide or to let this contract. It was IBM versus another -- EDF, I believe, was the other party. And so we have noticed

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1 our intent to let that contract. We're now in  
2 negotiations with Hewlett Packard, EDF, and that  
3 contract should be signed by the end of this month  
4 sometime. Actually, maybe within the next week.

5 What we hear from the vendor is they will have  
6 completed the process of scanning and moving from a  
7 paper system to an electronic file system in the prisons  
8 within approximately one year, and then we'll move to  
9 parole, and then finally to the Division of Juvenile  
10 Justice. So that's where we're at on the paperless  
11 system.

12 SENATOR AANESTAD: Are you pretty certain that  
13 the technology that you've contracted with is current  
14 and will be current three to five years from now?

15 MR. CATE: As confident as a layman in these  
16 things can be. We have ensured that we are going to be  
17 able to work with the court system, for example, that  
18 the court's new electronic data system will communicate  
19 with our electronic file system, and that they're  
20 compatible.

21 The same thing is true with the receiver. The  
22 receiver and I, in fact, are going to sign this contract  
23 together when the final negotiations are complete.

24 And also we've had Teri Takai, the chief  
25 information officer for the state, working with us very

5

1 closely on this project to ensure that it will indeed  
2 meet our needs for years to come.

3 SENATOR AANESTAD: You mentioned they will have  
4 the transfer of data in a year, but I'm sure there's  
5 going to be some time before it's really available for  
6 the parole board to be able to access that material and  
7 start using it on a regular basis. Do you have an  
8 estimate as to when that can be?

9 MR. CATE: Well, I know that over the course of  
10 the next three months, we're going to be moving,  
11 basically, desktop computers to 13,000 locations  
12 statewide to be able to have access to this information  
13 throughout the state. Whether specifically those will  
14 be available to the board of parole hearings within that  
15 year, I'm not sure.

16 But my understanding is once those are in  
17 place, it's really pretty easy to add new portals for  
18 people to view that information. But I can specifically  
19 check on the board of parole hearings issue for you.

20 SENATOR AANESTAD: And do you know with what  
21 the federal receiver is doing regarding healthcare in  
22 the prison system, whether information technology is  
23 part of the cost of what he submitted for also?

24 MR. CATE: It is. I know that he is going to  
25 be using the SOMS project and is financing some of the

6

1 SOMS project so that he can -- his medical-appointments  
2 process will be compatible with our system so that we  
3 will be able -- throughout the prisons, to be able to  
4 check on inmate appointments and inmate care.  
5 SENATOR AANESTAD: I guess the question  
6 is: When they're downloading data, are we talking about  
7 just current inmates, or are we going to go back several  
8 years?  
9 MR. CATE: Only inmates who are currently in  
10 the prison system, and then those who are currently in  
11 the parole system when we get to that step.  
12 SENATOR AANESTAD: Okay. Thank you.  
13 CHAIRMAN STEINBERG: Thank you. Any Members  
14 have questions on IT before we move on to the next  
15 category?  
16 All right. I'd like to move on to the Division  
17 of Juvenile Justice, which often gets sort of ignored in  
18 the larger conversation about corrections. And, of  
19 course, the goal is to make sure that we do everything  
20 we can to make sure those offenders do not end up in our  
21 state prisons.  
22 So if I might begin, another federal court in  
23 the *Farrell* lawsuit held that the State is in gross  
24 violation of various orders relating to the improvement  
25 of DJJ. The Little Hoover Commission has recommended

7

1 that DJJ be shut down. In your responses, Mr. Cate, you  
2 disagreed with that recommendation. Why should we be  
3 spending the taxpayer money on this system?  
4 MR. CATE: I don't think we should be spending  
5 as much as we're currently spending, but I do think it's  
6 important that we continue to have a state juvenile  
7 system. The reason -- I think to place it in a context  
8 helps with this discussion.  
9 California has the fewest juveniles in the  
10 state system per capita of any state in the nation. So,  
11 in essence, the 1700, approximately, wards we have in  
12 the state Division of Juvenile Justice, the former CYA,  
13 represents, really, the smallest percentage of wards of  
14 any state in the nation.  
15 So 90 percent have either violent or sex  
16 offenses in their past, for example. Many also are  
17 mentally ill, have co-occurring drug and alcohol issues.  
18 They are the most at-risk, most needy youth in  
19 California, period.  
20 And while some counties, especially larger  
21 counties, have some capacity to deal with those wards,  
22 not every county is prepared to deal with those wards,  
23 especially when the average length of stay is three to  
24 four years. As you know, the counties only have  
25 jurisdiction to 18, so it is a very unique subset of

8

1 wards and youth that we're talking about.  
2 I think, though, that two things need to  
3 happen: One, we need to improve our treatment of these  
4 wards. I think the *Farrell* case is strong evidence of  
5 that. And, secondly, we need to bring down the cost.  
6 Budgeted at \$250,000 per year per ward is unacceptable.  
7 We spent about 199,000. Texas spends about 100,000 per  
8 year per ward. We can still bring it down, and we have  
9 a plan to do that.  
10 SENATOR OROPEZA: Can I --  
11 CHAIRMAN STEINBERG: Go ahead, Senator Oropeza.  
12 Follow up.  
13 SENATOR OROPEZA: I was just wondering -- I'm  
14 wondering what --  
15 I was sort of looking for the next step, which  
16 is what the plan is, because you've articulated what the  
17 problem is, that you think you can save money, and maybe  
18 what you can buy these folks in terms of program. The  
19 plan that you're talking about, is this a different plan  
20 from the strategic plan? It's a plan specifically for  
21 the juvenile offenders?  
22 MR. CATE: It is. Part of that authority --  
23 SENATOR OROPEZA: A separate plan?  
24 MR. CATE: Yes. And it will be integrated  
25 eventually, but the *Farrell* remedial plans are long

9

1 completed. So those are done, and we are about  
2 66 percent in compliance with all the *Farrell* remedial  
3 orders for, you know, treatment, for health and safety,  
4 for medical, et cetera.  
5 So the treatment aspect has been planned out,  
6 really, with the court's experts. The additional piece,  
7 though, is to right-size DJJ, which will mean the  
8 closure -- I can say publicly will mean the closure of  
9 at least one more facility, and it will mean additional  
10 staff reductions.  
11 We've reduced our staff by 1500 already over  
12 the last two or three years, and it needs to come down  
13 even more. So our staff's right-sizing plan has been  
14 completed with the help of, again, the court's expert,  
15 and we're going to put that together with the facility  
16 closure to bring those costs down.  
17 SENATOR OROPEZA: Okay. On the non-cost side,  
18 on the program side, what does the plan include and what  
19 has been implemented?  
20 MR. CATE: Well, it has 6,000 individual  
21 points, tasks that need to be completed. It literally,  
22 in *Farrell*, covers every aspect of our treatment of  
23 wards, every aspect without exception. And so, as I  
24 mentioned, about 66 percent of those 6,000 have been  
25 accomplished --

10



1 SENATOR OROPEZA: Can you give me a vague --  
2 just a sort of general, not vague, but a general idea of  
3 what areas you have focused on, the department has  
4 focused on, in terms of that 66 percent?

5 MR. CATE: Sure. The --

6 SENATOR OROPEZA: Versus what's left.

7 MR. CATE: Right. So, for example, in the  
8 compliance area, education is an area that we've done  
9 fairly well on. We were at 41 percent compliance in  
10 2006, and we're at 74 percent compliance today with  
11 those remedial plans. Healthcare, we're at 71 percent  
12 compliance. That's the very first time the experts have  
13 gone through, the first round of inspections. Wards  
14 with disabilities were at 68 percent.

15 We are lower in health and safety, and others,  
16 and I don't have those numbers with me today.

17 SENATOR OROPEZA: Is health and safety  
18 facilities?

19 MR. CATE: It is. So some of that is the  
20 culture of the facilities. I can say that I toured, for  
21 example, the Chaderjian facility four years ago as the  
22 inspector general, and, literally, at that time, wards  
23 were climbing over barbed wire fences to get at each  
24 other, to fight and attack one another. I went through  
25 that facility again three months ago and found that

11

1 And, if so, have you factored in the element of size in  
2 terms of the quality of the rehabilitation opportunity?

3 MR. CATE: Yes. That's an excellent question,  
4 and we will be consolidating underused facilities so  
5 that we fully utilize each facility to the extent  
6 possible.

7 The challenge is the more wards you have,  
8 obviously, the more difficult to manage. The check on  
9 that is that the *Farrell* court has mandated that each  
10 living unit be no more than 36 wards in the living unit.  
11 So the individual ward's experience shouldn't be harmed  
12 by the consolidation. That's the goal.

13 Obviously, the more missions that facility has,  
14 meaning, you know, whether it's sex-offender treatment,  
15 or drug and alcohol treatment, or treatment for our  
16 mentally ill wards, then it becomes more complex for  
17 staff, and you have to be more careful about what you  
18 do.

19 But on the whole, the idea is to consolidate  
20 while keeping the wards' living units down, while  
21 keeping the educational experience rich.

22 SENATOR AANESTAD: More?

23 SENATOR OROPEZA: Well, sure. I have other  
24 questions, not on this particular aspect of what he was  
25 saying.

13

1 wards were walking to class unescorted; they were  
2 actually outside of the secured perimeter learning  
3 groundskeeping; they were....

4 I was at O.H. Close, which is our facility for  
5 young men, just about a week ago, two weeks ago, and  
6 that runs just like any other school. A high school.

7 SENATOR OROPEZA: So when you're talking about  
8 health and safety issues, these are not issues of  
9 physical plants and that type of vulnerability.

10 MR. CATE: Right.

11 SENATOR OROPEZA: It's -- I guess your word was  
12 "culture."

13 MR. CATE: Violence reduction would be an  
14 example. So we brought violence down both in terms of  
15 violence against staff and violence against --  
16 ward-on-ward violence is down. And those are some of  
17 the goals of that health and safety remedial plan.

18 SENATOR OROPEZA: And you mentioned that you're  
19 going to have to -- or you see as part of this cost  
20 savings aspect, and I assume also you see it as a  
21 positive programmatic decision, closure of certain  
22 facilities. Does that mean that those facilities are  
23 currently -- they're used, but they're underutilized,  
24 and you're going to be consolidating to make larger  
25 facilities? Is that sort of the way you're going on it?

12

1 SENATOR AANESTAD: Let's stay with DJJ right  
2 now.

3 Senator Dutton, have you any questions?

4 SENATOR DUTTON: Just a little along that line  
5 now. We started -- When we started reforming or  
6 adjusting and changing the juvenile system, part of it  
7 was to go into a contract with the county for some of  
8 the -- some juvenile offenders. As I recall, that cost  
9 is, like, 135,000 per inmate, or something of that  
10 nature.

11 MR. CATE: Yes. One hundred twenty-five to  
12 135.

13 SENATOR DUTTON: Yes. Does the state still  
14 have involvement through your department as to knowing  
15 what progress is being made and who is kind of  
16 monitoring the program there?

17 MR. CATE: The -- In part. The Correctional  
18 Standards Authority monitors the facilities themselves  
19 to make sure that they're up to standards. But we don't  
20 monitor, for example, their recidivism rates or those  
21 type of issues like we do within our own system.

22 It's my understanding -- I know that as the  
23 chair of the Correctional Standards Authority, we bring  
24 counties before us all the time to check on compliance  
25 with the state standards for the facilities themselves.

14



1 SENATOR DUTTON: And so what's the -- You said  
2 the juvenile offenders that we currently retain in the  
3 system at the higher cost, which you agreed is not  
4 acceptable, we're going to have to work on that, but  
5 what other kind of services are the counties providing,  
6 or what services are we providing that the counties are  
7 not providing?  
8 MR. CATE: It's county by county. Some  
9 counties do a good job of meeting all of the needs.  
10 One of the historic problems with DJJ is we  
11 would have a waiting list for certain specialized  
12 treatment groups, like sex-offender treatment. We no  
13 longer have a waiting list, so we can offer wards a full  
14 menu of services. There may be a short wait; but on the  
15 whole, we can offer a full menu.  
16 And counties -- It's 58 different scenarios,  
17 depending on the county that we're talking about.  
18 Again, some in urban areas tend to have a pretty  
19 complete system and others don't because they just don't  
20 have the numbers. If you just have a couple of wards  
21 with a particular concern, then it's difficult to bring  
22 in a specialist just for those wards. Obviously, it  
23 becomes cost prohibitive.  
24 I think the reduction of our wards from 10,000  
25 down to 1700 has resulted in our costs going up, because  
15

1 now we have to provide the full menu of services to an  
2 ever-shrinking population of wards.  
3 SENATOR DUTTON: It would just seem to me it  
4 would make a certain amount of sense to continue to  
5 explore, unless there's something wrong with the system  
6 that we've worked out with the county as to some of the  
7 juvenile offenders, why we wouldn't want to pursue that  
8 with the balance.  
9 I understand they have additional special  
10 needs, but I would think the counties like  
11 Los Angeles and San Bernardino and San Francisco, and so  
12 forth, these counties -- it seems to me they probably  
13 have the ability to deal with a lot of those same issues  
14 now, and it certainly looks to me like an immediate cost  
15 savings to start bringing it down way below the 250 when  
16 we're currently contracting out with them at 125 or 130.  
17 MR. CATE: Some counties send very few wards,  
18 because they're able to handle them locally. And we are  
19 open to continuing to work with the counties to try to  
20 increase county participation.  
21 The fact is, and I think all the science  
22 agrees, that the more wards we can keep local, the  
23 better, you know, the family connections, et cetera. So  
24 we will continue to pursue that.  
25 SENATOR DUTTON: Okay. Thank you.  
16

1 CHAIRMAN STEINBERG: Thank you very much  
2 Senator Dutton. Let me see if I can pick up just a  
3 little on there.  
4 You know, one of the sort of themes, Mr. Cate,  
5 we keep returning to, and recognizing you are relatively  
6 new here, but it does seem that with this department,  
7 that there is planning to do planning, and then planning  
8 to do more planning to do more planning, and, you know,  
9 when we talk about benchmarks and timetables, that's in  
10 response to that concern.  
11 So this is the question on DJJ: The state  
12 commission on juvenile justice apparently just came  
13 up with a business plan that costs the taxpayers  
14 hundreds of thousands of dollars in staff and consulting  
15 fees. And you've asked the chief deputy secretary to  
16 come up with a new business plan.  
17 I guess the question is why. And why is, you  
18 know, once the Jewish holiday has passed over, why is  
19 this plan different from all other plans? Sorry.  
20 MR. CATE: The -- in particular, it's not  
21 any -- As I mentioned earlier, the planning for  
22 providing ward services is done. We are implementing on  
23 that aspect.  
24 This is really about right-sizing DJJ, which  
25 was not the focus of the plan you're referring to.  
17

1 There are good things that we're taking from that, but  
2 what I really need to do, I think, in these times is  
3 bring the costs down as fast as we can. And so we are  
4 identifying a closure, for example, of which facility do  
5 we close. Obviously, that's a role just for the state  
6 to take. And how do we carefully right-size our number  
7 of employees without, again, impacting community too  
8 much, or impacting our employees. And so there's --  
9 Some of those aspects, I think, only the department can  
10 do.  
11 CHAIRMAN STEINBERG: So let me then ask the  
12 follow up: You're essentially telling us here that the  
13 goal is to reduce the cost below \$250,000 per juvenile  
14 offender. When can we expect that that reduced cost  
15 will be reality?  
16 MR. CATE: Well, we're -- I've asked -- I'm  
17 going to take just an off-the-top cut from DJJ, as we  
18 are from headquarters and other aspects, what the  
19 administration would usually call an unallocated cut.  
20 So we will take a cut immediately from DJJ, but when  
21 you're looking at upwards of 300 to 400 employees who  
22 would have to be relocated or have to be offered jobs at  
23 the adult prisons or somewhere else, it will take over  
24 the course of a year to give those employees notice,  
25 find them other work opportunities, and either, God  
18

forbid, lay them off or transfer them.

So it will be over the course of this year that we'll realize those savings, and I expect to get that down from 250,000 down to 175,000 in a year.

CHAIRMAN STEINBERG: In a year. Well, that is specific --

SENATOR OROPEZA: Can I ask one more question on that?

CHAIRMAN STEINBERG: Of course.

SENATOR OROPEZA: Why kind of criteria -- I don't want to get too nitty-natty on this, but what do you use to evaluate and make decisions about what kinds of functions will experience these layoffs? Or is it a matter of just wherever they are, they're going based on seniority or something?

I'm concerned about how this impacts programs for the wards, and so that's really sort of my question.

MR. CATE: What we did is we went to the court's expert in this area, and we worked with him to develop this right-sizing model, meaning how many treatment providers, how many youth correctional counselors do we need in any particular living unit. And what we found is we were richer than what the appropriate treatment model called for, so there is some fat there that you can cut away --

19

SENATOR OROPEZA: You're using that model as to where to cut.

MR. CATE: And so facility by facility, treatment area by treatment area, housing unit by housing unit, the court's expert has said, "You need five. You have seven."

Then, of course, as you know, once we've identified those two extra positions, then the state's process goes, and you have to then ask who has seniority, who has rights to what, and everybody bumps everybody. And that's why it takes a year.

SENATOR OROPEZA: Thank you.

Thank you, Mr. Chair.

CHAIRMAN STEINBERG: Thank you.

Senator Dutton, you have a follow-up as well.

SENATOR DUTTON: Yes. You indicated about the number of employees and having to look for relocation and so forth. They're correctional officers, correct?

MR. CATE: Well, typically about half are -- a youth correctional officer is a slightly different classification, but they can go from a youth correctional officer to an adult correctional officer.

SENATOR DUTTON: Are we fully staffed at the adult?

MR. CATE: We are. Not at every prison. If

20

1 you look at our total numbers, we are fully staffed.  
2 We -- Obviously, with 37,000 sworn, we attrit a large  
3 number every month, and so it's always up and down. And  
4 some institutions have a better time recruiting than  
5 others due to location, et cetera. But on the whole,  
6 we've found ourselves fully staffed. Now, that won't be  
7 true over the course of the year. We'll attrit  
8 retirements and so forth. And so we should be able to  
9 merge folks into those positions.

10 SENATOR DUTTON: So if we had a plan where we  
11 were going to phase out the balance of the juvenile  
12 program -- I mean, during that -- it wouldn't take years  
13 to find other opportunities. They may not like to move  
14 over to the adult system, but it is the other  
15 opportunity.

16 MR. CATE: Yes. I didn't mean to imply it  
17 would take a year for everybody. Some will take just a  
18 few months, and others will take longer as they'll bump  
19 others who will then bump others, and then we'll find  
20 out who needs to transfer and so forth.

21 But the entirety of that process -- My admin  
22 folks have told me it takes nine months to 12 months to  
23 get everybody through that process.

24 SENATOR DUTTON: And it will probably take that  
25 long to make arrangements with the counties and things

21

1 to transfer the responsibility of the remaining juvenile  
2 inmates into their system, and they can probably all be  
3 coordinated at the same time, couldn't it?

4 MR. CATE: It depends on whether the counties  
5 are interested in those wards, and it would also depend  
6 on whether it's the best interest of the wards. And  
7 right now, I don't believe it's in the best interest of  
8 the wards to have all of those wards go to the county.  
9 But as many as possible, yes.

10 SENATOR DUTTON: I would be interested if you  
11 can follow up later on with information as to what you  
12 said about the counties, that it wouldn't be in the best  
13 interest for them to go to certain counties, because I'm  
14 having a hard time believing that we've got any of them  
15 that would be as bad, as good, or maybe better in some  
16 cases, if they were in the county closer to families,  
17 things like that.

18 I'm having a hard time -- Which particular  
19 cases are those? Are there counties that we have  
20 problems with? Is that what the problem is?

21 MR. CATE: We just --

22 MR. DUTTON: You can't make the system -- You  
23 can't just eventually leave the system having two or  
24 three hundred at a cost of a million dollars each.  
25 That's not practical at that point. It doesn't make

22



1 sense.

2 MR. CATE: We've seen the bottom, I think. Our  
3 population projections show that the population of DJJ  
4 is going to go up. So we're at 1600 and change, and we  
5 expect to go up from there.

6 Part of the problem is that the old CYA and DJJ  
7 developed a bad reputation in the counties, and judges  
8 were hesitant to send wards to DJJ. I think now that we  
9 have the appropriate programs available for those  
10 high-needs wards, I think that will impact, and we'll  
11 see those numbers start to go up.

12 The Penal Code provides that the judges are  
13 supposed to keep wards local until they find their needs  
14 cannot be met at the local level. So as those jurists  
15 come to understand what's available at the state and  
16 what's available at the counties, they'll make those  
17 decisions differently.

18 SENATOR DUTTON: Okay.

19 CHAIRMAN STEINBERG: One more question, if I  
20 might, in this area, and that is the position of a  
21 correctional education administrator, which is a  
22 position, as I understand, that has been unfilled for  
23 about four years. And you said in your response that  
24 "We will not rest until this position is filled with a  
25 qualified candidate." How much longer?

23

1 MR. CATE: Well, we've identified the  
2 candidate, so hallelujah. We've identified candidates  
3 before, and it hasn't worked out, obviously. But my  
4 chief deputy secretary of juvenile justice has sent me a  
5 resume, and I've looked at that resume. The person  
6 seems imminently qualified, so I told him, Mr. Warner,  
7 to go ahead and push the process forward. I'm probably  
8 talking out of school a little bit in that I'm not sure  
9 exactly where we are in making a formal offer,  
10 et cetera. But it seems expedient, at this point,  
11 exactly where we are in that process.

12 CHAIRMAN STEINBERG: You're on the verge if  
13 this person accepts the position.

14 MR. CATE: Yes.

15 CHAIRMAN STEINBERG: Senator Oropeza.

16 SENATOR OROPEZA: May I ask just one more on  
17 the juvenile justice area.

18 It's my understanding that one of the aspects  
19 of the *Farrell* lawsuit that was -- a finding of that  
20 lawsuit was that the wards were kept in locked  
21 facilities for 23 hours a day. They only had one hour  
22 of release.

23 My understanding is that last week, the  
24 inspector general released a follow-up audit, apparently  
25 he does audits, he or she does audits, on various

24

1 aspects of this, and that that audit said that the  
2 CDCR still fails to implement the recommendations in the  
3 2005 settlement related to youths being released from  
4 their rooms for three hours, which I find amazing that  
5 three hours would be sufficient, but apparently that was  
6 the finding, the agreement.

7 Can you explain that and talk about what's  
8 being done about that, if anything?

9 MR. CATE: Yes. The original 2005 inspector  
10 general's report uncovered that there were wards at  
11 nearly every facility who were in their rooms not --  
12 23 hours a day as opposed to just 21 hours a day, so  
13 that report recommended that that practice stop.

14 The department has pledged that it would do  
15 that. It has instructed its superintendents that all  
16 wards must receive at least three hours outside of their  
17 rooms.

18 In this follow-up audit, they went to the Stark  
19 Youth Facility in the Chino area and found that while we  
20 were in compliance with the wards who were in the  
21 special-management program, which had been a problem in  
22 the past, wards who had committed an act of violence  
23 would be put in this special program, and those were the  
24 wards who were kept in 23 and 21. So they found those  
25 were in compliance. But then there was another group of

25

1 40 wards who were in what's called a high-risk unit who  
2 were only getting, on average, 2.2 or 2.3 hours out  
3 instead of the full three.

4 So, obviously, when that report came out, I  
5 went to Mr. Warner and inquired. I obviously should be  
6 held accountable for that in that I was the inspector  
7 general who wrote the first report, for crying out loud.  
8 And so what I found is that whereas in the  
9 special-management program where we -- Literally, it  
10 goes all the way to the top if a ward is not going to  
11 get three hours out. Those same protections weren't in  
12 place for these high-risk or core programs.

13 So I went to my staff and found that they are  
14 now going to require documentation any time a ward does  
15 not get the full three hours. But the underlying  
16 problem is not just getting three hours, as you've  
17 identified. That's not really enough. They need to be  
18 in school.

19 So we tried to put these at-risk -- these what  
20 they call high-risk wards in school, and fights broke  
21 out, and there was violence. That's why these wards are  
22 high risk. But our education staff say that it's not  
23 okay to educate in your room. We've got to work it out  
24 where we can provide a safe educational setting even  
25 with these high-risk wards.

26



So that's where we're going. We're going to try again to find a way to safely do that while not impacting the safety of the other wards who are in those classrooms.

SENATOR OROPEZA: I appreciate that, and I think that's a great goal and an important one. I was just floored by just the one hour a day seeing sunlight or being out of an enclosed cell, and so on that piece alone, which is much less complex than creating an educational program that high-risk offenders can get along with each other in, what do you think is --

What is your expectation of the facilities and what -- you know, this happened -- this finding came out last week. How long before we're not going to see it anymore, where everybody is going to get their three hours, and then we work on the program.

MR. CATE: Obviously, the first day I saw this I contacted Mr. Warner, and he contacted the assistant superintendent, who is the acting superintendent, to make sure that the administrators at that facility understood our expectation is three hours for every ward every day.

Now what they -- There are some circumstances, obviously, where a ward's been involved in an act of violence that very day on staff or another ward. It may

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1 director. But what really astounds me is that you  
2 didn't even know about this until this report comes out  
3 a week and a half ago.

4 MR. CATE: Well, it --

5 SENATOR OROPEZA: And in addition to that,  
6 beyond that, that's on one facility. What about the  
7 rest of the places where we are incarcerating these  
8 young people? Is the same thing going on there? And is  
9 there any linkage with accountability?

10 CHAIRMAN STEINBERG: What is the management  
11 system? And if it's not there -- You obviously did the  
12 right thing here. You find out about this, and you hold  
13 yourself accountable, and then you go out and try to fix  
14 it. But why did it break down in the first place?

15 MR. CATE: Well, I think there's two issues.  
16 One is that I think that DJJ has been recreating itself  
17 under these -- under this *Farrell* case now for a couple  
18 of years, and we have -- I'll give you just one example  
19 to illustrate.

20 Preston Youth Facility in Ione, we have piloted  
21 what's called the program service day where every ward  
22 is out of their room going to school, to vocation, to  
23 medical/mental health treatment during the course of  
24 their entire day. And that's the expectation. So  
25 that's working there.

29

1 be --

2 SENATOR OROPEZA: It may be appropriate, yes.

3 MR. CATE: Right. There may be some limited  
4 time, but they need to -- In fact, before I was ever the  
5 secretary, they sent the expectation that every ward  
6 would get three hours, regardless of what program you're  
7 in. So it's a matter of follow-up and management.

8 SENATOR OROPEZA: And accountability, wouldn't  
9 you agree? Accountability, and that's the bottom line.

10 CHAIRMAN STEINBERG: May I?

11 SENATOR OROPEZA: Please.

12 CHAIRMAN STEINBERG: I don't mean to harp on  
13 this, but it just raises a larger issue, which is -- I'm  
14 wondering how it is that the information did not get to  
15 the top administrator until after this follow-up audit  
16 takes place.

17 Does the department lack management systems to  
18 ensure that when, for example, you as inspector general  
19 made the recommendation that you made back in 2005, that  
20 there is, in fact, somebody checking to see whether or  
21 not there's follow-up and it's been complied with?

22 It begs a larger issue to me, Matt, you know,  
23 getting back to the business plan with benchmarks,  
24 timetables, checks. Who's minding this store?  
25 Obviously, the buck has to stop with you. You're the

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1 And now, as you pointed out, we need to have  
2 best practices replicate themselves, so the rest of our  
3 institutions are going to go to this program service day  
4 as part of our compliance in *Farrell*.

5 Part of the problem, I think at Stark in  
6 particular, is that we've seen -- and this is something  
7 you pointed to -- turnover in leadership. So we  
8 currently have an assistant superintendent who is  
9 acting as the superintendent when the superintendent  
10 retired. And, ultimately, as administrators, we need to  
11 know that and hold our people accountable.

12 The other thing I think that Senator Aanestad  
13 brought up is it's much easier to do this if you have  
14 IT systems available for you at your fingertips where  
15 you can check those kind of data. We do have that with  
16 the special-management program because of the inspector  
17 general's audit. So now the director learns right away  
18 if those special-management wards are not getting three  
19 hours.

20 I don't know why the department didn't expand  
21 that to these high-risk youth, but we are now.

22 CHAIRMAN STEINBERG: Okay. Thank you. Let us  
23 move to another category here, which is AB 900 and  
24 infrastructure. And let's -- Let me cut right to the  
25 chase, and then my colleagues can pick it up from there.

30

1 In the budget agreement of February the 20th,  
2 the legislature passed and the governor signed language  
3 to get a clean bond opinion from the attorney general to  
4 allow those dollars to begin flowing, and that you've  
5 already preliminarily -- I believe preliminarily --  
6 sited 2500 beds.

7 The question is: Where are they, and do they  
8 meet the stated goal of housing inmates closer to home  
9 prior to their release so that the inmate, soon-to-be  
10 parolee or ex-offender, has more ability to have a  
11 successful reentry back to their community?

12 MR. CATE: There are three parts of AB 900.  
13 One is what we've -- what was originally known and what  
14 we still call in-fill, which is now a misnomer, but the  
15 original idea was to put up facilities within the walls  
16 of existing prisons. We have -- That was deemed before  
17 I ever arrived here to be not the best approach, and so  
18 we are -- we have provided the --

19 We have provided informational 30-day letters  
20 to the joint legislative budget committee on three  
21 projects, but it's no secret about where we're going.  
22 We want to build in the central valley where communities  
23 want us for these in-fill projects. The other aspect,  
24 though, is reentry. So we have worked out agreements to  
25 site reentry facilities with 11 counties. So that

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1 includes San Bernardino, and Kern, and Madera, and eight  
2 others, to site 500-bed reentry facilities so that  
3 offenders who are paroling to that community can receive  
4 treatment from providers from that community, and so we  
5 can have an appropriate hand-off to law enforcement in  
6 that community.

7 So, unfortunately, as the legislature has acted  
8 to give us the discretion we need to build the right  
9 kind of facilities, it so happens that the bond market  
10 fell apart at the same time. So we are now going to  
11 have to wait for, at least, availability of funding to  
12 be able to build and construct. But our goal is to have  
13 everything we can do completed so that once the pooled  
14 money investment accounts are again available, we can  
15 start our building on these projects.

16 The other thing I would like to say about  
17 AB 900 is that the receiver and I are having  
18 conversations about whether we can't use -- we can't  
19 build facilities -- If we're going to build facilities,  
20 can we build them in such a way that it would meet some  
21 medical and mental health needs that we know we have as  
22 well. Let's maybe kill two birds with one stone. So  
23 Mr. Kelso and I have been meeting and discussing whether  
24 that's a possibility.

25 Of course, the benefit is that that's exactly

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1 what we've been fighting about in the courts, is the  
2 construction aspect.

3 CHAIRMAN STEINBERG: All within the bond  
4 authorization of AB 900, because there was, of course, a  
5 second bill dealing with just medical facilities. What  
6 you're saying is you and the receiver are trying to  
7 package it all into one less expensive package to  
8 address the overcrowding and the medical/mental health  
9 beds?

10 MR. CATE: I'm not saying that.

11 SENATOR AANESTAD: Multipurpose.

12 MR. CATE: To the extent possible. There's a  
13 couple different options here, and we're kind of going  
14 into medical. It's probably a good transition, at  
15 least. One is that we could try to build multipurpose  
16 facilities with AB 900 money. I think the receiver  
17 probably will say we that can't build enough mental  
18 health beds/medical beds with just the allocation that  
19 we were given with AB 900.

20 Another option is that the administration would  
21 enter into -- use the I Bank or some other form of  
22 independent financing to add, and the other is that the  
23 legislature would provide funding specifically for  
24 medical facilities. The legislature provided \$1 billion  
25 for medical facilities originally. We have a number of

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1 mental health projects going with that. Obviously, the  
2 receiver's projects would take much more than that  
3 billion to complete. So there's a number of different  
4 options that we're exploring.

5 CHAIRMAN STEINBERG: Back to my original  
6 question. You gave a good answer, but I just want to  
7 get back to it here a little bit.

8 As I look at this list of reentry locations, if  
9 we were to put a chart up here and tried to match up  
10 the soon-to-be-released inmate's place of family  
11 residence and these facilities, would there be a  
12 correlation or not?

13 MR. CATE: What you would find is there would  
14 be a glaring hole in Los Angeles County --

15 CHAIRMAN STEINBERG: Aha.

16 MR. CATE: -- to start with. Thirty-five  
17 hundred parolees go to Los Angeles County every month,  
18 and so far we have no reentry facility sited in  
19 Los Angeles County.

20 CHAIRMAN STEINBERG: Speak to that a little  
21 bit, please. Maybe I should have my Los Angeles  
22 colleagues take the question.

23 SENATOR OROPEZA: I can imagine why, and I can  
24 imagine might not disagree.

25 MR. CATE: It's a real concern. Obviously, a

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500-bed reentry facility would be, in some people's view, a drop in the bucket when you have so many thousands returning to L.A., but it would signify progress. L.A. County really has a struggle in some ways with that large pool, and it's a priority to try to do something there.

In meeting with Sheriff Baca, in putting our heads together, our decision has been we will do reentry without brick and mortar if we have to. If the County doesn't provide the site, for whatever reason, there's no reason we can't partner with L.A. City and L.A. County to provide services to parolees, to provide effective law enforcement hand-off from our parolee -- prisons to parole to local law enforcement. There is a wonderful pool of treatment providers that are in Los Angeles who we need to work with.

I can finish with this: One thing that we've already decided to do, which I think is a good first step, is that in the past, we've had a certain amount of dollars for job training, and we have contracted with individual job placement providers. And we didn't contract with anyone from Los Angeles, and so we had nothing for parolees in Los Angeles.

What we decided to do instead is we've canceled those contracts, and we're going to spend the money that

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1 There are some facilities where we don't have enough  
2 providers, and where those facilities, are our care  
3 breaks down.

4 I think that the *Coleman* court has been very  
5 clear also that there are waiting lists that are too  
6 long for inmates who need to go from one level to  
7 another. So if you're an outpatient mental health  
8 inmate and you for one reason or another are struggling  
9 and in need of crisis care, or even intermediate care,  
10 there's too often a waiting list for those beds, so  
11 inmates continue to stay at the outpatient status for  
12 too long. And so for that reason, we really do need  
13 additional beds just to make sure those inmates are in  
14 the right treatment environment.

15 The other thing is we need to continue our  
16 efforts at recruiting and retaining mental health  
17 professionals, particularly in the central valley where  
18 it is most difficult to recruit.

19 CHAIRMAN STEINBERG: Beyond psychiatrists?

20 MR. CATE: Psychiatrists and psychologists,  
21 both. We do better in some facilities than in others.  
22 I think ultimately the right answer is to move our  
23 mental health population from the central valley to the  
24 coast in Southern California where the providers are  
25 versus trying to recruit the providers to the central

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1 you've allocated to provide additional resources for the  
2 workforce investment board so that where the most  
3 parolees are, that's where the most workforce investment  
4 will be driven.

5 So we've worked with Los Angeles, and they're  
6 going to see a significant increase of funds in  
7 Los Angeles for those workforce investment boards to try  
8 to provide job placement for those parolees in  
9 Los Angeles. It's a small step, but it's a start.

0 CHAIRMAN STEINBERG: I'd like to finish this  
1 particular subject matter by going back to something we  
2 spoke about, and, of course, Members have their own  
3 questions.

4 Going back to a subject we touched on last  
5 time, which is mental health, it always strikes me when  
6 anybody uses the term "beds." It presumes that  
7 establishing those beds is somehow going to effectively  
8 address the mental health needs of the particular  
9 population.

0 Do you believe that the department knows how to  
1 provide mental health services to its inmates in  
2 custody?

3 MR. CATE: Yes, I do. I wouldn't say that  
4 we've historically done a good job of it, but I think  
5 that we do now provide good care at some facilities.

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1 valley.

2 CHAIRMAN STEINBERG: Are you familiar with the  
3 recovery model of mental health treatment?

4 MR. CATE: Not by that name.

5 CHAIRMAN STEINBERG: Okay. The systems-of-care  
6 approach that has been effectively implemented by the  
7 providers on the outside to try to address the plight of  
8 the homeless mentally ill.

9 MR. CATE: Yes.

10 CHAIRMAN STEINBERG: Are there strategies and  
11 lessons to implement inside the facilities from what is  
12 successfully done outside the facilities?

13 MR. CATE: I think so. One of the, I think,  
14 unfortunate aspects of being in court cases in  
15 everything we do, including mental health, is we've now  
16 categorized our inmates. So if you're in triple CMS,  
17 well, by golly, then we treat you like triple CMS.

18 I've learned from our experts that people who  
19 suffer from mental illness, they will rise and fall as  
20 to their needs at any one particular time; but we  
21 continue to typically treat them like they're  
22 categorized. And I think that's one thing we can do  
23 better.

24 CHAIRMAN STEINBERG: You strike at the heart of  
25 it, and I've just got to say, you know, this is where

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1 your dual responsibilities of public safety and custody  
2 and rehabilitation and treatment really, you know, come  
3 into conflict. And I don't know exactly how you resolve  
4 it, but I do know they are working contrary to one  
5 another, because when you categorize people in the way  
6 you just described, you're not trying to deal really  
7 with their rehabilitation.

8 What I know of the corrections mental health  
9 system is that it's a lot of psychiatry and a lot of  
10 heavy drugs to keep people kind of placid and calm them  
11 down. Medication, of course, can be part of treatment,  
12 but that's not recovering. That's why when I asked  
13 about recruitment, you talked about psychiatrists and  
14 psychologists. What about social workers? What about  
15 mental health professionals who work in these community  
16 programs and under a system-of-care approach that  
17 includes mental health treatment, substance abuse  
18 treatment, employment skills, behavioral modification,  
19 all sorts of things that you don't get at when you just  
20 kind of force feed people a lot of medication?

21 MR. CATE: A good example of one of those  
22 problems is that I've learned are -- moderately mentally  
23 ill are not able to take part in our drug and alcohol  
24 programs when we know that they do have co-occurring  
25 issues. So that's one area where those classifications

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1 have gotten in the way. I think you're absolutely  
2 right.

3 CHAIRMAN STEINBERG: Let's take a break. We'll  
4 come back -- we have two categories to go, unless  
5 Members have other questions as well, and that is we  
6 want to talk about the broader litigation issue and the  
7 receiver, and of course we want to talk about parole.  
8 And I may ask a question or two about San Quentin.  
9 Okay?

10 MR. CATE: Thank you.

11 CHAIRMAN STEINBERG: Thank you.

12 (Recess taken.)

13 SENATOR AANESTAD: We'll bring the Committee  
14 back to order, and the Chair has indicated that we'd  
15 still like to pursue two more topics, healthcare,  
16 basically, and parole. I think we'll leave parole for  
17 last, so let's just get into healthcare.

18 I guess you and I had a fairly lengthy  
19 discussion knowing that that's probably my main  
20 interest, and you brought me up to date on what the  
21 three-judge panel has determined lately, which also  
22 affects parole, wanting to release 50,000 to 60,000  
23 prisoners over the next couple of years in order to  
24 reduce population.

25 I guess my first question is kind of a basic

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1 one. The original stipulation is that overcrowding is  
2 at the root of our healthcare crisis in prisons today.  
3 Would you agree with that?

4 MR. CATE: Yes. I think it's a root cause of  
5 all of our problems in the prisons. Overcrowding makes  
6 everything we do more difficult. I think in particular,  
7 though, despite the fact that we haven't addressed  
8 overcrowding, other than we've reduced the number of  
9 what they call ugly beds, gyms and dayrooms, we've  
10 reduced those by about 8,000 over the last year. But  
11 other than that, which has helped some, we've seen, I  
12 believe, the biggest improvements in medical based upon  
13 the fact that we now pay market rates or higher --

14 SENATOR AANESTAD: Higher.

15 MR. CATE: -- for clinicians. So our  
16 vacancies, which were horrendous before, are -- now  
17 we're at less than 10 percent vacancy. So that's been a  
18 big improvement. The quality of physicians, now we can  
19 attract board-certified physicians, including those in  
20 family practice; whereas before we would have  
21 specialists doing generalist's work, and we had some,  
22 frankly, unqualified clinicians practicing in our  
23 prisons causing, I think many, of the problems.

24 Part of it is the facilities. When I visited  
25 San Quentin five years ago, the facilities were dirty,

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1 sinks weren't operable, so there wasn't in all cases a  
2 place to wash up. I mean, it was just terrible in many  
3 respects. So at least everything is clean now.

4 And then the last point is that we weren't --  
5 we were having difficulty getting inmates to outside  
6 providers, specialists, and now we are -- I think the  
7 receiver has said we are now overutilizing specialty  
8 care at a high cost, so he's hiring a utilization expert  
9 to try to bring that down.

10 So we've done all of that, all that  
11 improvement, despite overcrowding still being a major  
12 issue in California. It's just that all those hurdles  
13 become higher and cost more to get over when you're  
14 dealing with this high population.

15 SENATOR AANESTAD: I'll just make the comment  
16 that as far as the prisons hiring healthcare people, I  
17 now have three counties in my 12-county district that  
18 have no psychiatrists, because at \$300,000 a year, plus,  
19 they've gone to work for the prison system, which has  
20 left some of my rural communities in real dire straits  
21 because there's no way we can compete with that.

22 This weekend I had, at my home, two phone calls  
23 from dentists looking for information about how to get  
24 in to become a prison dentist, because you're starting  
25 them at 175,000 a year. I'm strongly considering

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leaving the Senate and applying, at those rates. And yet I understand --

And yet, the three-judge panel persists in the notion -- it seems like their current quest is now based on information that seems to be outdated. That is, it's my understanding that the department, in the last three years, has significantly, as you just testified, cleaned up its act and hired a specialist to the point where maybe you've got more than enough, and yet the three-judge panel continues to use this crisis in healthcare as their motivating factor to get the billion dollars that they feel needs to be spent.

Can you comment on that?

MR. CATE: Well, there -- problems remain. I think that the clinic space is still inadequate. We need to expand our clinical space, and we need to make sure, especially on the mental health side, that we have enough appropriate beds for inmates at the higher levels of care. So there's work yet to be done, and obviously the lawyers are arguing about whether that work that remains is sufficient to require the release of inmates or not. That's for sure.

That's, I think -- That's one of the reasons Mr. Kelso and I decided to reach out to one another and see if there's some middle ground here between us that

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we might agree to as far as doing these things on a more cost-effective manner and take an approach that recognizes our economic crisis as well as our responsibilities to our inmates. So those talks have been progressing, and I'm hopeful that there might be some middle ground between us.

SENATOR AANESTAD: We're told that the average cost to the state of Texas for healthcare for one of their inmates is \$5,000 a year. In California it's \$15,000, three times as much. Why?

MR. CATE: Well, there's several reasons. One is that Texas utilizes the University of Texas for their medical care, so all the clinicians don't work for the department. They work for the University of Texas. And it's a teaching hospital system, so that, I think, has resulted in less costs.

Also, the pay rates in the Southwest are much -- particularly in that part of the country -- are far less than ours.

And also, one of the, I think, problems with a receivership of any kind is that you have dual government in that we have Corrections with a contracts department, an accounting department, and an HR department; and a receivership with a contracts department, an accounting department, and an

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1 HR department. So there's that redundancy, I think,  
2 that drives cost as well. Again, one of the things that  
3 has driven, I think the receiver and I, just in the last  
4 month or so to start talking about is there some way to  
5 consolidate those services so we can get some  
6 efficiencies back into the system.

7 SENATOR AANESTAD: You have a large population  
8 of inmates over the age of 60, many who have served most  
9 of their adult time in prison, now coming up with  
10 significant medical-care costs. And it's been suggested  
11 that some of these folks, as they get older and sicker,  
12 probably would be best for the prison system to release  
13 them from prison and let them get their healthcare  
14 outside of the prison system. How do you react to that?

15 MR. CATE: Well, that is a very sensitive  
16 question, because those folks who have been in prison a  
17 long time are there because they committed, typically,  
18 very serious offenses. So there are victims and  
19 survivors of those crimes who are very much opposed to  
20 any kind of release of the aged and infirmed before they  
21 serve their time.

22 The courts are now involved very heavily in the  
23 issue of what's an appropriate measure for an inmate for  
24 the board of parole hearings to make a decision about  
25 whether an inmate should be paroled.

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1 We have a compassionate release program. I  
2 will tell you it's very complex and ineffective in that  
3 not only do the wardens have to identify these inmates  
4 who are incapacitated and, as such, no longer a threat,  
5 but that has to go -- We identify those folks all the  
6 time. It has to go to the board of parole hearings.  
7 They have to make a determination and pass on the  
8 individual to say yes they can be a subject of  
9 compassionate release. And then, finally, it goes to  
10 the sentencing court, and that judge makes a final  
11 decision about whether that inmate is eligible for  
12 compassionate release, and not very many are.

13 We just recently had a case in San Joaquin  
14 county where the court said this person may not be a  
15 danger, but why should the County pick up the cost  
16 associated with caring for this invalid inmate rather  
17 than the State, and ultimately the judge denied the  
18 petition.

19 So I think some work can be done to try to  
20 streamline that process, if that was the will of the  
21 legislature and the governor.

22 SENATOR AANESTAD: Do any of the other Senators  
23 have any questions regarding healthcare?

24 SENATOR OROPEZA: I'll get caught up. I'm  
25 sure, I mean, you all have asked the basic questions

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1 about what's happening and how you plan to improve up to  
2 the standards of the lawsuit, and all of that good stuff  
3 is in the record already. Or no?  
4 MS. SABELHAUS: No.  
5 SENATOR OROPEZA: No? Okay. How about that?  
6 So I would ask about that.  
7 MR. CATE: Okay.  
8 SENATOR OROPEZA: Generally speaking -- It's  
9 sort of a general question. We know that a major  
10 element of the lawsuit has to do with medical care.  
11 MR. CATE: Right.  
12 SENATOR OROPEZA: So tell us about what has  
13 transpired since that time and what the plans are to  
14 continue to seek full compliance.  
15 MR. CATE: Well, obviously, the current state  
16 is that the receiver controls medical care, and so he  
17 has published plans, and he is working those out. And I  
18 think I've stated publicly before, and I'll say so  
19 again, I think he has greatly improved medical care by  
20 raising salaries to decrease vacancies, and recruiting  
21 highly qualified clinicians, and getting inmates to  
22 specialty care, and hired a thousand or more  
23 correctional officers to ensure we could escort inmates  
24 to their appointments and so forth. So it's come at a  
25 high cost, but we have seen great improvement.

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1 I think the next step for the State, one way or  
2 the other, is that the Department of Corrections should  
3 demonstrate its competence to run medical care itself,  
4 that the federal court shouldn't indefinitely run  
5 medical care. And I think Judge Henderson and Kelso  
6 would agree with me that we need to work towards the  
7 State again being in control, obviously, of this state  
8 function. I think we made terrific progress.  
9 One of the things I'm most excited about is the  
10 medical inspection teams that are -- that have -- that  
11 are working now in the inspector general's office. The  
12 inspector general has put together, over the last couple  
13 years, these medical inspection teams that go out and  
14 objectively rate the prisons and how they're providing  
15 medical care. And then they publicly report a score  
16 card on each of the major categories so everyone can see  
17 which prisons are doing well and which aren't.  
18 That's only been going now for -- I think it's  
19 six months or so, in earnest. But as that progresses,  
20 it will provide, I think, a good score card for everyone  
21 to see how we're doing.  
22 SENATOR OROPEZA: Then will there be carrots  
23 and sticks -- I mean, what will be the --  
24 What is the planned outcome from those score  
25 cards? Next step. How would that be handled?

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1 MR. CATE: Well, that's yet to be determined by  
2 the courts. My --  
3 SENATOR OROPEZA: So that's all under the  
4 courts, and you all aren't really -- you're sort of  
5 doing what they say to do?  
6 MR. CATE: We have obligations in that we need  
7 to make sure that the custody side of the house works  
8 well with the receiver so that our officers are  
9 cooperating with the clinicians to make sure that  
10 inmates make it to their appointments and those kinds of  
11 things. So we need to work hand in hand with them.  
12 That's our responsibility.  
13 On mental health care, we still have a full  
14 panoply of responsibilities, and so we are working to  
15 improve our mental health care at the same time.  
16 SENATOR OROPEZA: Has there been any movement  
17 in terms of having -- he's a receiver, not a special  
18 master -- the receiver --  
19 What's the receiver's relationship to your  
20 offices relative to the mental health piece? You've  
21 talked before, during the course of your testimony,  
22 about having a good relationship and being able to work  
23 some things through and that kind of thing. How has  
24 that happened in the health area, the mental health  
25 area?

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1 MR. CATE: Well, I think that when I was  
2 appointed 10 or 11 months ago, the relationship wasn't  
3 very good, but, thankfully, it has much improved now.  
4 And so we are talking about this very issue of when do  
5 we transition from the --  
6 SENATOR OROPEZA: Oh, you are?  
7 MR. CATE: Yes, we are. And that will take --  
8 The lawyers have to get involved, because there's  
9 plaintiffs in the case. The prison law office  
10 represents that class. And it's one thing to say that  
11 the receivership will -- or that medical care will go  
12 back to Corrections. It's another thing to say that the  
13 Plata lawsuit will be completed.  
14 So there are many hurdles to go, but I'm just  
15 tremendously excited about the fact that at least at  
16 this point, on day-to-day issues in the prison, when it  
17 comes to providing inmate patients with care, we're  
18 working hand in hand, and that's a significant  
19 improvement over where things were a year ago.  
20 SENATOR OROPEZA: Thank you.  
21 Thank you, Mr. Chair.  
22 CHAIRMAN STEINBERG: Go ahead, Senator.  
23 SENATOR AANESTAD: The receiver has proposed  
24 that we build seven new prison hospitals. Hospitals are  
25 one of the most expensive buildings that man has ever

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devised on what to build, and my question is: Do you think that we need seven new prison hospitals? Can we deliver adequate standard of care with less?

MR. CATE: I don't believe we need seven new facilities. To be fair, these are -- They're extremely expensive, and they're not hospitals. They will be more akin to a skilled nursing facility. Still extremely expensive.

I think the receiver, to his credit, has recently said that he thinks that they may be able to do with less than seven as well, so that's part of our discussion.

The governor's clear instructions to me have been, "We will build only what the state needs," meaning unless the court -- unless we get directly ordered to and we lose all our appeals, we want to build only what the state actually needs; we want to build something that's cost efficient; and we want to build something that's safe for our staff and for inmates.

And so I have communicated that to Mr. Kelso, and, to his credit, he has, I think, started to -- we've started to have conversations about just what is, you know, the number of inmates that should be in these facilities.

One thing we've discovered is there's about

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1500 inmates we think systemwide who need help every day with daily activities. They need assistance every day with meeting their daily needs. So maybe those infirmed inmates, those particularly aged who are struggling in those ways might be a group that would be appropriate. And there may be others.

The other twist to this, though, is that the *Coleman* court, in the mental health side, has demanded we build beds for our mentally ill inmates. So, again, the opportunity presents itself to say: Should we build some consolidated facilities of some kind to try to meet both those needs?

We also have a need for high, level-four cells. So those inmates who are most dangerous, those inmates who have refused to comply with prison rules, those inmates who are serious and violent, are terribly overcrowded as well.

And so with just AB 900, it's hard to imagine meeting all of those needs, but those are the kinds of conversations we're having right now to figure out just what is the minimum we can live with in these tough times.

SENATOR AANESTAD: Senator Dutton.

SENATOR DUTTON: Just a couple. When you started talking about the facilities, I was just

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1 thinking we build homes that have Alzheimer's  
2 facilities, as well as assisted living and so forth.  
3 Various veteran home models have been set up. When you  
4 said it's more like an extended-care-type of facility, I  
5 think one of the more expensive ones was about  
6 \$400 million, and that was a 400-bed facility built on  
7 the side of a hill. So you're talking about spending,  
8 on the average, a billion dollars. I thought they were  
9 talking about operational surgical rooms and everything  
10 else, but I guess I'm mistaken.

11 My actual question has to do with: Who is  
12 responsible for releasing inmate medical information at  
13 this point? Is it the department, or is it the  
14 receiver?

15 MR. CATE: In what context?

16 SENATOR DUTTON: Inmate medical information.

17 MR. CATE: The receiver has control of inmate  
18 medical records.

19 SENATOR DUTTON: And they're totally  
20 responsible for it? The Department of Corrections has  
21 no say about it one way or the other?

22 MR. CATE: You know, I believe that that's  
23 correct. Obviously, the records are housed in our  
24 facilities and so -- and we have clerks and so forth  
25 that are there, so I'm sure --

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1 Everything that happens, it seems we have some  
2 shared responsibility. But on the whole, I know medical  
3 appeals are the receiver's responsibility, but sometimes  
4 we act in concert on those issues. I believe that  
5 medical records is also the receiver's.

6 SENATOR DUTTON: Well, what I'm curious about  
7 is that some families like to have -- receive  
8 information, and once in a while we do get inquiries, so  
9 I'm not sure who really to talk to. Do we talk to you?  
10 Do we talk to the receiver? Who do we talk to if  
11 somebody feels they're having trouble getting accurate  
12 information regarding a family member's medical  
13 condition?

14 MR. CATE: Senator, the receiver would be the  
15 first place, but you could always submit information to  
16 my office, and we'll make sure we coordinate with the  
17 receiver.

18 SENATOR DUTTON: The buck stops with you, then,  
19 as far as that?

20 MR. CATE: Right. I think the receiver would  
21 handle those requests; but if there's some breakdown, I  
22 always want to make sure that we're there to help.

23 SENATOR DUTTON: Does the department have some  
24 kind of standardized form for inmates to designate who  
25 can be notified as a result of an inmate's medical

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1 condition? Is there some kind of standardized type form  
2 and system?  
3 MR. CATE: I believe so. At the inspector  
4 general, one of the things we looked at was issues of  
5 "Do not resuscitate" orders and last wishes, and one of  
6 our concerns was that there was some -- different  
7 institutions were handling those DNRs differently. And  
8 my understanding is that that issue has been worked out  
9 and that there is a common form for that and for all  
10 medical wishes of the inmate to be communicated. But I  
11 would need to get you more details on that.  
12 SENATOR DUTTON: If you would, please. Thank  
13 you.  
14 CHAIRMAN STEINBERG: Mr. Vice Chairman? Okay.  
15 The only comment I want to make on the  
16 healthcare piece, before we move on to the last piece  
17 today, is I know and I believe that you have developed a  
18 constructive relationship with the receiver. And I know  
19 the administration, of course, is taking the position  
20 that the receivership should end. And it does, though,  
21 beg the larger question whether if the receivership did  
22 end, or when it does end, will you have the management  
23 structure in place, the support team that you need, the  
24 leadership training, attraction/retention, technology,  
25 check-and-balance systems that we've talked about

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1 throughout this hearing, to actually successfully run  
2 the healthcare system in the state prisons.  
3 I'm looking for an answer from you. It's  
4 more of a statement. But that really is the acid test  
5 here, is it not?  
6 MR. CATE: It's one that the receiver has  
7 identified as a concern of the court that we not  
8 backtrack from the progress we've made. I think it's a  
9 fair criticism or comment, and I think that the state  
10 does need to demonstrate that it can manage that kind of  
11 issue. And the starting place is: Let's demonstrate  
12 that we can handle dental care, and let's demonstrate  
13 that we can handle mental health care, and let's build a  
14 record of confidence that a court can then say, along  
15 with some oversight, that, "Yeah, we think this can go  
16 back to the state at this point." It has to at some  
17 point.  
18 CHAIRMAN STEINBERG: So let's turn to parole,  
19 and then we will --  
20 (To the reporter): Ina, are you okay?  
21 (Discussion off the record between  
22 Chairman Steinberg and the court reporter.)  
23 CHAIRMAN STEINBERG: Okay. I want to sort of  
24 put out a big-picture question, and then you can answer  
25 it and sort of give a statement, if you would, please,

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1 Matt, on this issue.  
2 The parole issue has been discussed in recent  
3 times in the context of the budget. And of course we  
4 always talk about the policy and how much money a  
5 particular formulation of the policy would save the  
6 state. It's a very relevant issue.  
7 But in your view, should policy lead to the  
8 budget number, or should we start with the necessary  
9 budget number and back ourselves into the policy?  
10 MR. CATE: I think that when you're dealing  
11 with issues of public safety, the policy comes first.  
12 To the extent that we're out of money, it becomes a  
13 difficult question in a public-safety agency, because  
14 we're 70 percent staff-driven as far as our costs, and  
15 we're already 49th in the country in inmate-to-officer  
16 staff ratios.  
17 I don't believe we should cut anything from the  
18 prisons themselves. Those men and women are expected to  
19 do a very difficult job in difficult, overcrowded  
20 circumstances, so that leaves cutting headquarters,  
21 which we should do, that leaves program -- cutting  
22 education, vocational training. Mental health is an  
23 option. I'm opposed to that. I think that that just  
24 leads us to a revolving cycle of recidivism.  
25 So then you're left with -- Obviously, we can't

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1 cut medical care, and we shouldn't, and so that leaves  
2 just a few areas to really effectively cut. So you look  
3 at areas where we're out of step with some other parts  
4 of the country and see whether there isn't some things  
5 that we can do that are good public policy that might  
6 also save money. Sorry. That's a long-winded way of  
7 saying the policy comes first.  
8 CHAIRMAN STEINBERG: So the administration  
9 recommendation direct discharge, I believe it's called,  
10 correct? Direct discharge of nonviolent offenders.  
11 MR. CATE: (Nods head.)  
12 CHAIRMAN STEINBERG: Do you have any concerns  
13 about the public safety impact of the administration's  
14 proposal?  
15 MR. CATE: I think the administration's going  
16 to come out with a new proposal, which I think is --  
17 really looks at both the issues of public safety and the  
18 budget dollars.  
19 And so, you know, I guess my concern is you  
20 look at the issue of parole, for example. There's  
21 really two ways to cut it. One way is you just draw a  
22 line down the middle and you say your non-violent,  
23 non-sex offenders, non-serious offenders are off and  
24 everybody else is on. That certainly is an approach  
25 that has been suggested. It's a broad-brush approach.

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Nationwide, about 65 percent of offenders go on parole. In California, 100 percent go on parole. So there's some room there. The more, I think, elegant model is to utilize risk assessment to decide who's on parole and who's not.

I think, if I can sum up, my view on parole in California is that we spend too much money on low-risk, low-level offenders, and we spend not enough on the serious and violent and high-risk offenders. And so that would -- In my view, there's some room there for us to have a discussion about whether we can adjust how we spend our money. And there may be savings as a result of that -- I think there would be -- but we need to be careful to put the policy first.

CHAIRMAN STEINBERG: When will we expect the administration's proposal?

MR. CATE: This month.

CHAIRMAN STEINBERG: Okay. Can you speak a little bit -- I'm not asking you to get out ahead of the administration here in terms of an announcement, but can you speak a little bit more about risk assessment. I know the department has a new tool. Speak to that, its applicability, whether it's limited or broad.

MR. CATE: Sure. It's currently -- Well, let me, before I get to applicability --

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Within the last year to 18 months, we have, through our research folks, produced a validated risk-assessment tool so that we now have more information, valid information, than we've ever had about the future risk of an offender committing a new crime.

The first application of that tool has been in what we call the parole violation decision making instrument, which is -- of course it's Corrections, so we have to have a five-letter acronym, but it really isn't that complicated. It just lays out here on one axis the seriousness of a violation and on the other axis the risk of an offender to commit a new offense.

It's the same thing the judges use now in that they basically -- A judge will say, "Okay. You've committed a certain crime. Your punishment should be in this range." This tool says: You're this risk level; you've committed this level of violation. You're either -- we should continue to treat you in the community, or you need to be revoked and go back to prison.

We've only piloted it in four sites. We're just rolling it out now to the rest. I think it's a successful tool. The agents really like it on the whole, because it gives them, again, some scientific backing behind their decisions, which are life-and-death

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1 decisions about who goes back to prison and who stays on  
2 parole. So we're going to expand our use of that, which  
3 will help some.

4 The other possible application goes to the  
5 question of who should be on parole in the first place,  
6 and should we utilize a risk-assessment tool to make  
7 decisions about who we place on parole to begin with,  
8 because once you have someone on parole, there is a  
9 number of costs associated with that.

10 For example, the what are known as the Robin  
11 Reagan Rules, 2616, dictate that certain offenses  
12 require referral to the board of parole hearings for a  
13 decision about revocation. Moreover, *Valdivia* requires  
14 that we give everybody a lawyer before we revoke, and  
15 we've got to provide them with due process and notice,  
16 and all those things are tremendously expensive with  
17 each additional person.

18 So then that begs the question of: If we had  
19 fewer low-risk people on parole, could we spend some of  
20 that money on fugitive-apprehension teams? Could we  
21 spend some of that money to lower our agents' caseloads?  
22 Could we spend some of that money on electronic  
23 monitoring of our high-risk folks, our gang offenders?  
24 Is there something that we can do that would be a strong  
25 public-safety message utilizing this tool?

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1 So those are really the discussions I'm  
2 beginning to have with law enforcement, discussions I'd  
3 like to have with the legislature in more detail, and  
4 discussions I'd like to have with our victims' groups,  
5 our inmate advocates and all of those folks, to really  
6 have a more nuanced discussion about what's possible and  
7 what's not, and what's safe and what's not, and what are  
8 the budget implications of all that.

9 It's pretty complex, but I think it's worth  
10 sitting down and spending a lot of time working through.

11 CHAIRMAN STEINBERG: Sure. We look forward to  
12 doing that, hopefully earlier this month than later, at  
13 least preliminarily discussing what the outline is.

14 Let me ask a question about parole agents. I  
15 understand parole agents --

16 SENATOR OROPEZA: I'm sorry. It's --

17 CHAIRMAN STEINBERG: Go, go, go. You take it.  
18 You take it.

19 SENATOR OROPEZA: I'm sorry. I just wanted to  
20 ask this one question about this new risk-assessment  
21 process. Is it your thought or is it a possibility that  
22 with this new tool, there will not be a need for certain  
23 levels of human staffing, because these evaluations are  
24 sort of quantifiable, that there's not necessarily the  
25 same level of staffing required to do these qualitative

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1 judgments when you have quantitative data?

2 MR. CATE: Well, right now, it's actually -- If

3 our agents have one complaint about PVDMI, it would be

4 that they're doing their work twice a little bit right

5 now. We're working to make sure the computer auto

6 populates the forms for the agents, but until all the

7 bugs are worked out, that in some cases the agents --

8 you know, the instrument tells them here's what this

9 parolee needs, and they're doing a lot of work by hand

10 as well to fill out forms and things like that. And

11 so --

12 SENATOR OROPEZA: Down the road -- I mean, just

13 from a budget-savings standpoint, an efficiency

14 standpoint -- I don't know the answer, but is that

15 something that you all would think about, that there

16 might be certain kinds of things that could be done

17 through this more quantifiable method as opposed to a

18 more subjective kind of basis that human beings use, or

19 just -- I mean, what's your thought about that?

20 MR. CATE: One of the things that's interesting

21 about defining someone as low risk, that doesn't mean

22 that they'll never commit an offense. And having

23 someone on parole doesn't mean they never will commit an

24 offense. We know that 70 percent of people who --

25 Everyone is on parole in California, but we

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1 still have a 70 percent re-arrest rate. So there's no

2 foolproof method for anything in all of this. But the

3 interesting thing about what "low risk" means is that

4 folks are likely to make it without significant

5 treatment or intervention. That doesn't mean you're

6 going to get 100 percent. You certainly won't. But to

7 the extent --

8 If I'm missing your question, forgive me, but

9 to the extent that you can use those resources that

10 we're currently spending on low-risk people that we know

11 don't need the services, to provide additional program

12 for high risk -- You know, the women offenders is a

13 great example of that, whereas most of our community

14 treatment providers want our low-level offenders,

15 because it's easier to get a conditional use permit to

16 deal with low-level offenders. Well, our high-level

17 offenders, by definition, have a greater need. So with

18 that information, we can then go twist some arms to get

19 our high-need offenders into those programs.

20 So it can impact quite a bit of what we do.

21 We're just scratching the surface now with the

22 technology, because, frankly, again, this is a public-

23 safety question, and so we want to err on the side of

24 caution in rolling these kind of things out a little

25 more slowly. But it's been 18 months now, and so --

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1 SENATOR OROPEZA: I was just sort of thinking

2 outside the box. Thank you.

3 CHAIRMAN STEINBERG: Thank you very much,

4 Senator Oropeza.

5 Let me ask another question about risk

6 assessment. Are the parole agents in the best position

7 to determine risk?

8 MR. CATE: In some respects, yes, and in some

9 respects no. We know that the reason that we use risk

10 assessment is that it gets -- the reason it's, quote,

11 validated is we know that the risk assessment gets it

12 right more often than agents will get it right based on

13 just their gut feeling.

14 We also know it depends on the agent. For

15 example, we know that agents in rural counties, in rural

16 areas, make different decisions than agents in urban

17 areas. Young agents make different decisions than old

18 agents. But what we've done right now is we've said --

19 in these pilot programs -- "Let's use the risk

20 assessment and the instrument first. And, Agent, if you

21 have a reason to override, then you need to be able to

22 explain why. It's not enough to say I feel..."

23 CHAIRMAN STEINBERG: Either way?

24 MR. CATE: Either way.

25 A classic example: Someone has missed a

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1 program meeting. Should they go back to prison? Well,

2 it doesn't sound like it at first blush. But what if

3 their commitment offense was domestic violence and the

4 program meeting they missed was their anger management

5 or domestic violence meeting? The agent may pick that

6 up and say, "You know what? I'm seeing an increasing

7 problem here with this person, and so we're going to

8 override for the seriousness of it." And it works the

9 other way too. So I think the best program is a

10 blended, where we use our agents but rely on the

11 science.

12 CHAIRMAN STEINBERG: Is it true that --

13 recently that parole agents recommended somewhere in the

14 neighborhood of 11,000 parolees for probation, but only

15 500 were actually discharged? Are you familiar with

16 that general ratio? Or do you agree with that general

17 ratio?

18 MR. CATE: I have heard that before. I do not

19 know that to be true. I do --

20 I will say that in general, one of the problems

21 we have is that agents don't have unfettered discretion

22 in who is released from parole under the current system.

23 Again, our regulations require that for many

24 offenders and for many violations, that the agent may

25 make a recommendation, but it goes to the board of

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parole hearings to make that decision. It's taken out of the agent's hands, and the board has historically taken a firmer view than agents.

Now, the board, to its credit, has now agreed to start reviewing risk assessments themselves so that they can make better informed decisions.

So my hope is, while I don't know that those numbers are right, there has been a discrepancy, and I'm hoping to bring that down so everyone is working off the same page of music.

CHAIRMAN STEINBERG: It just does turn stereotypes on their heads a little bit. I mean, my assumption would be that the parole agents might be harsher. They're in the streets. They're dealing with it every day, yet if they're saying we can save money by discharging 11,000 and only 500 are actually discharged, you just wonder about that.

MR. CATE: I think there is -- I think we should be relying on our agents more.

I have to tell you, I'm just being, obviously, really frank here, but --

CHAIRMAN STEINBERG: No one's listening.

MR. CATE: Can I turn this off?

Just between us....

Those -- The Robin Reagan Rules are a hot

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button for our victim stakeholders and many law enforcement groups, and they really believe that the board of parole hearings is the right place to make those determinations for our serious violent offenders and -- regarding many offenses.

(Discussion off the record between Senator Aanestad and Chairman Steinberg.)

CHAIRMAN STEINBERG: Do you want to say that on the record?

SENATOR AANESTAD: No.

CHAIRMAN STEINBERG: All right. Other questions from Members about parole.

And in some ways, it may be a little premature in the sense that since you candidly revealed that there will be another proposal forthcoming, I don't know that we want to dwell too much on what's definitely on the table at this point.

SENATOR OROPEZA: I have a couple questions about female programs.

CHAIRMAN STEINBERG: Go. Sure.

SENATOR OROPEZA: I mentioned last time to you, Mr. Cate, that I, along with a few others, had the opportunity to visit a female residential multiservice center here in Sacramento that houses 25 women, and this center actually is a -- really is a multi --

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1 multiservice center. It sort of brings everything to  
2 one place, one location, and it seems to be working very  
3 successfully. The legislature authorized the funding of  
4 500 of these types of beds, and, to my knowledge, this  
5 is -- these 25 are the only ones that exist.

6 Do you know what the status is of the remainder  
7 of those authorized beds? I have the -- I actually have  
8 a copy of the RFP request.

9 MR. CATE: There are -- let's see....

10 With both the female rehabilitative  
11 multiservice centers and the female rehabilitative  
12 community correctional centers, the reentry centers, we  
13 have delayed implementation due to budget concerns.

14 We have not quote, unquote, as some have  
15 suggested, taken those offline completely. It's been a  
16 delay. And then the other thing that we've been looking  
17 at is, as I've shared with you, these are -- the women  
18 in the female rehabilitative multiservice centers are  
19 the very women who would be most impacted by parole  
20 reform if it were to come to pass. It may or may not,  
21 but --

22 SENATOR OROPEZA: Here's the question, though:  
23 The legislature authorized these dollars, okay, for the  
24 500 beds. I can't believe -- I would be shocked and  
25 disturbed if the budget constraints meant that basically

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1 you weren't going to use, but for 25 beds, all of that  
2 money that was authorized for the 500 beds to meet your  
3 budget constraints. Surely, that can't be the case, is  
4 it?

5 MR. CATE: No. We are going to continue to  
6 roll out more. But I have to tell you that to the  
7 extent that we overspend our budget, as an agency  
8 secretary, I'm personally financially liable for  
9 those --

10 SENATOR OROPEZA: I understand that.

11 MR. CATE: -- and just, again, every year of  
12 the last several years, we've been budgeted at \$100  
13 million for overtime, and we've spent \$400 million for  
14 overtime. There's a \$300 million hole there. I'm not  
15 suggesting we should fill that hole on the backs of our  
16 female multiservice center programs. I'm not. We need  
17 to move forward with that, but I just had to get at  
18 least a sense that we weren't going to go in the  
19 red this year.

20 SENATOR OROPEZA: So you did take it out of  
21 this program? I mean, this program for this year, the  
22 money that we authorized, is going to be spent to  
23 balance the budget, basically. I mean, that's the truth  
24 of the matter for this year. Yeah or no?

25 MR. CATE: At least in part. I don't know

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1 about in whole.  
2 SENATOR OROPEZA: We've only got 25 beds. We  
3 authorized 500.  
4 MR. CATE: I don't know how many --  
5 SENATOR OROPEZA: It troubles --  
6 MR. CATE: -- are in the pipeline.  
7 SENATOR OROPEZA: It troubles me the priority  
8 that this program and these women might be getting in  
9 the system because maybe it's a program that doesn't  
10 have as high visibility or as big an advocacy for it, or  
11 whatever the case may be.  
12 This was something that was an important  
13 priority for the legislature, and it sounds like it's  
14 not really being given a very high priority. I mean, it  
15 sounds like it's a budget balancing amount of money. If  
16 that's the case, I think it's good that we know that as  
17 a legislature, because I think I thought we bought some  
18 good program there.  
19 MR. CATE: Again, I don't know as I sit here  
20 how many of those beds are in the pipeline. I'll have  
21 to get you that information.  
22 SENATOR OROPEZA: Okay. I'd love to know that.  
23 And the second question I have has to do with  
24 where I live, my county. I live in Los Angeles county,  
25 in Long Beach, and so we did some checking on the status

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1 of parole-agent work, caseloads and workloads in my  
2 area. And as you mentioned, a lot of parolees are  
3 released every month to L.A. county. We understand  
4 that.  
5 It's my understanding that the parole agents  
6 have a caseload cap of 154 points, and these points are  
7 based on, you know, what level of assistance the parolee  
8 needs. So given that, there's this sort of stacking  
9 system of points.  
10 My understanding is that it is more than double  
11 that in terms of actual caseload for agents in the Long  
12 Beach area and beyond, which is in my district. Two  
13 hundred ninety-seven points, 281 points, and 291 points,  
14 as some examples of the staffing ratios, double the cap.  
15 My concern or my question is: How can we  
16 reasonably expect, therefore, for any real meaningful  
17 work to be going on there when they are saddled with  
18 that level of caseload? Can you speak to that, please.  
19 MR. CATE: You're absolutely correct. It's not  
20 a situation that we can endure for long. It's difficult  
21 for the agents under those kind of caseloads to do all  
22 of their work, and it drives overtime, and burnout, and  
23 all of those kinds of things.  
24 It's obviously a result of the number of  
25 vacancies in Los Angeles, in that region, and so we're

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1 left with a decision about do we run a parole academy,  
2 and if we do, what do we tell those cadets about their  
3 future?  
4 Do we say -- Obviously, I think we have to be  
5 candid and say that the administration has put forward  
6 serious parole-reform measures in the past, that the  
7 legislature has put forward parole-reform measures in  
8 the past, and that if any of those were accepted, or  
9 some combination, that there could be layoffs in parole,  
10 and those new agents would be the first to be laid off.  
11 SENATOR OROPEZA: So you think that the reforms  
12 that may come could actually have the needs -- the  
13 caseloads for people? I mean, that's what we're talking  
14 about here. It seems like a class --  
15 You know, hiring more parole agents is not  
16 going to fix the totality of the problem any time soon.  
17 It's a question of, you know, sort of picking away at a  
18 problem, you know, chipping away at it, or just saying,  
19 "Well, we're going to do something later on, maybe, so  
20 we're not going to do anything now"? Or was this  
21 another budget issue where the vacancies -- so be it,  
22 L.A. county, Long Beach. You ended up with less people  
23 in your area, and the budget constraints don't -- that's  
24 life?  
25 MR. CATE: It's been difficult to recruit

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1 agents to some regions -- more difficult in some regions  
2 than in others. That region has particularly been hard  
3 hit. But I'm not going to keep that information from  
4 prospective employees. It would not be fair. I've got  
5 to let them know that, so that's why we have to  
6 settle --  
7 SENATOR OROPEZA: Let them know --  
8 MR. CATE: About the potential for changes to  
9 parole. So that's why we have to get this figured out,  
10 in my view, quickly. So if we're not going to do  
11 anything with parole, fine. Then we can recruit and  
12 hire more agents and fill those vacancies, and we will  
13 with due diligence.  
14 SENATOR OROPEZA: Let me just say that there is  
15 an element to this that is, to my mind, as important, if  
16 not more important, than what you have articulated as  
17 far as employee burnout is concerned, and that is the  
18 safety of our communities. And when parolees have a  
19 parole agent that has twice their calculated required  
20 workload, or the workload that makes sense, how are they  
21 monitoring these people who are in our communities?  
22 And I would suggest that there might even be a  
23 vicious cycle around that. You provide less support in  
24 a community, you're going to get less safety. Then  
25 you're going to have more parolees into the area. And

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it's almost like, you know, a vicious cycle.

It just seems to me that unless the administration and you believe that the parole reforms are going to totally fix this problem, that you ought to be chipping away at it now. I mean, if you really believe it's going to -- totally it's going to fix the double-the-caseload, then fine. If you don't, I don't see any reason why we shouldn't be pursuing this. This is a matter of safety in communities.

I live in Long Beach, and it scares me to think that the parolees are getting this half a level of supervision. I have a right to feel -- I think my husband, when I tell him, is not going to be so excited. I mean, I think my neighbors are not so excited about the fact that they don't get what the system believes is the appropriate level of supervision. Do you see my point?

MR. CATE: I do see your point.

CHAIRMAN STEINBERG: Is your proposal this month going to address some of these concerns?

MR. CATE: Well, we are taking some steps already. Part of the problem in that region is that agents will work for two years and then transfer to another region where it's more affordable or where families are, et cetera. So the availability of the

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agent transfers is one of the issues that we're doing to try to curb the flight from this region.

It's not fair that agents in one region have to be working all the overtime to maintain public safety where agents in another region don't. I think that's true. And it's not something that we can -- Those caseloads are not something we can maintain long term. I think your point is well taken.

Ultimately, the parole proposal addresses the problem. It's going to depend on my and the administration's conversations with this body, with the legislature, and with our stakeholders, to know one way or the other. We just need to know really quickly for the reasons you pointed out.

SENATOR OROPEZA: Yeah, really quickly a response on this would be -- It's very troubling.

MR. CATE: And I can give you some information about the intermediate steps we're taking right now in region three.

SENATOR OROPEZA: Okay. That would be helpful, maybe.

CHAIRMAN STEINBERG: Thank you for putting that squarely on the table here. And I suggest that we continue the discussion not only at the next hearing for Mr. Cate, but that we refer some of these questions to

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1 the budget subcommittee, and we look at how -- they're  
2 the same, I mean, similar issues when it comes to  
3 teachers. It's sort of endemic --

4 SENATOR OROPEZA: Where we need them most.

5 CHAIRMAN STEINBERG: Where we need them most,  
6 they often aren't there.

7 Okay. Are there -- Let's hear from witnesses  
8 in support. If you testified last time in general on  
9 behalf of Mr. Cate, that's on the record, so I don't  
10 need folks to repeat their testimony. But if there's  
11 anybody new here in support, please come on up.

12 MR. THORPE: Thank you, Senators. My name is  
13 Scott Thorpe. I'm the CEO of the California District  
14 Attorneys Association testifying in support of  
15 Secretary Cate. CDA represents the 57 elected district  
16 attorneys and approximately 3,000 prosecutors throughout  
17 the state.

18 I've known Secretary Cate for many years, and,  
19 in fact, we worked together at the attorney general's  
20 office on criminal investigations and prosecutions.  
21 Subsequently, I have worked with Secretary Cate when we  
22 visited the inspector general's office where, of course,  
23 he was able to obtain unique knowledge of the CDCR, and,  
24 most recently, in the last 11 months, on behalf of the  
25 district attorneys in his capacity as the secretary of

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1 CDCR.

2 Throughout this association, Secretary Cate has  
3 always conducted himself with the highest level of  
4 integrity. He is a dedicated public servant who is hard  
5 working, and, important to the questions this committee  
6 has been asking, a visionary in terms of how to solve  
7 problems. He knows the department, and he knows those  
8 things that need to be done. He also has a very broad  
9 perspective of the criminal justice system because of  
10 his prior experience and where all this fits in.

11 He has demonstrated that he can surround  
12 himself with talented people. Many of the questions  
13 that this committee has asked about management style,  
14 and I think it was the chairman who said, "You can't do  
15 it all by yourself."

16 Secretary Cate, from my experience when I was  
17 at the attorney general's office, and he went to the  
18 inspector general's office, stole the best people. He  
19 knows how to surround himself with talented, dedicated  
20 people.

21 CHAIRMAN STEINBERG: Is that a misdemeanor, or  
22 is that a wobbler?

23 MR. THORPE: Well, at the attorney general's  
24 office, we considered it a special-circumstance felony,  
25 but we were not able to prosecute.

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1 My point being that he recognizes he cannot do  
2 this himself, and he does surround himself with talented  
3 people who have that same passion and dedication.  
4 And finally, just to mention, in the last, I  
5 believe, 11 months that he has been appointed, he has  
6 had an open door, an open phone line, an open e-mail,  
7 with all the stakeholders, including the district  
8 attorneys. He listens to and considers the opinions and  
9 views of others, even when we disagree with each other.  
10 So on behalf of the California District  
11 Attorneys Association, we strongly urge an affirmative  
12 vote on Secretary Cate's appointment.  
13 CHAIRMAN STEINBERG: Thank you very much, sir.  
14 We appreciate you coming to testify.  
15 MR. THORPE: Thank you.  
16 CHAIRMAN STEINBERG: Next.  
17 MS. STEWART: Hello. I'm Gail Stewart, and I'm  
18 here on behalf of San Diego County District Attorney  
19 Bonnie Dumanis. We echo many of the sentiments  
20 expressed by Scott Thorpe. We are here to --  
21 We respect and commend Secretary Cate's  
22 leadership and his willingness, as Scott mentioned, to  
23 bring the stakeholders to the table. It's critical for  
24 the San Diego County District Attorney, and we also urge  
25 his confirmation. Thank you.

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1 CHAIRMAN STEINBERG: Thank you very much. We  
2 appreciate it.  
3 Assembly member.  
4 MR. BOWLER: Yes, Senator.  
5 CHAIRMAN STEINBERG: Nice to see.  
6 MR. BOWLER: At this age, it's nice to be seen.  
7 Mr. Chair and Members and Secretary Cate, I am  
8 a former Assemblyman, Larry Bowler, and I served in this  
9 building -- that's L-a-r-r-y, B-o-w-l-e-r -- having  
10 served in this building between 1992 and 1998.  
11 Senator Bob Presley, formerly of this body, and  
12 CHP Commissioner Spike Helmick and I have assembled a  
13 group that we call The Presley Group. It includes a  
14 growing list of CDCR retirees and some active personnel,  
15 program administrators, wardens, and so forth, people  
16 with knowledge and experience who basically are  
17 disgusted with the attitude and the actions and  
18 inactions of California Department of Corrections and  
19 Rehabilitation.  
20 CHAIRMAN STEINBERG: Excuse me, Mr. Bowler, but  
21 are you here in support of the nominee?  
22 MR. BOWLER: Yes, I'm in support of Mr. Cate.  
23 CHAIRMAN STEINBERG: Oh, good.  
24 MR. BOWLER: Yes, I am.  
25 CHAIRMAN STEINBERG: I just wanted to clarify.

80

1 I heard the word "disgusting" --  
2 MR. BOWLER: The disgusting is --  
3 CHAIRMAN STEINBERG: Set off an alarm.  
4 MR. BOWLER: The disgusting part is the  
5 attitude of the bureaucracy, the administration.  
6 Our focus is on recidivism of parolees. We are  
7 persuaded with our -- just the three of us have over a  
8 hundred years of working with deviant people, and we  
9 are --  
10 SENATOR AANESTAD: Does that include the  
11 legislature?  
12 MR. BOWLER: Just talking about the guys with  
13 the ties.  
14 We are persuaded that if we can get a handle on  
15 recidivism of parolees, we can get a handle on the  
16 overcrowding that's affecting our prison institutions.  
17 I know Secretary Matt Cate to be a man of  
18 transparency, honesty, and integrity. He has been  
19 appointed by the governor to a nearly impossible task,  
20 and that is governing CDCR, an ungovernable, in my mind,  
21 massive intransigent -- struggled on that word --  
22 bureaucracy.  
23 Now, if you were to ask the CDCR  
24 administrators, they would claim a myriad of  
25 rehabilitational programs, and they do exist on paper.

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1 Their answer, however, will be misleading at best. Only  
2 two questions need to be asked, and that is, number one,  
3 "How many real, active, student inmate parolees are  
4 enrolled in these programs?" And, number two, "Why  
5 does the recidivism rate among parolees persist at  
6 70 percent?"  
7 CHAIRMAN STEINBERG: Mr. Bowler, not to  
8 interrupt you, but I just want to -- because you weren't  
9 able to be present at the first day of hearing, we asked  
10 Mr. Cate and he agreed that on the 22nd of April, he's  
11 going to report back to this committee with some goals,  
12 timelines, benchmarks, specifically around programming,  
13 and how over what time we are going to increase the  
14 number of inmates in vocational programs and in other  
15 rehabilitation programs. So that information is  
16 forthcoming.  
17 And I expect we'll also hear more about it when  
18 the administration unveils its revised parole policy as  
19 well. Just so you know.  
20 MR. BOWLER: I understand, I understand, and I  
21 look forward to that.  
22 I've distributed a fact sheet of talking points  
23 about an award-winning parole training program, the  
24 bottom line of which sees 7 percent recidivism rate.  
25 That program could easily be taken on by CDCR and

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expanded throughout the state of California. So it can be done with the right concepts.

And I basically give my sorrow to Secretary Cate in that he has to deal with those who will not accept any program that comes from outside their own bureaucracy.

CHAIRMAN STEINBERG: Thank you, Mr. Bowler, and thank you for your continued public service.

MR. BOWLER: Thank you.

CHAIRMAN STEINBERG: Thank you.

Any other witnesses in support? Witnesses in opposition?

All right. As we -- Senator Aanestad, I'm sorry, had one more question.

SENATOR AANESTAD: That's fine.

CHAIRMAN STEINBERG: Okay. As we spoke about in the last hearing, we're going to recess this hearing and reconvene on the 22nd of April, where we would anticipate a vote, and we will want to review the information we requested in the first hearing, and the parole issue, and, specifically, you know, the very dramatic concerns that Senator Oropeza raised in her questioning. And so we will look forward to resuming.

Thank you again for your time, and your candor, and your interaction with this committee. We appreciate

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it.

MR. CATE: Thank you. Thank you all very much.

CHAIRMAN STEINBERG: Okay. Very good.

(Thereupon, the Senate Rules Committee hearing adjourned at 3:50 p.m.)

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I, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of April, 2009.

  
INA C. LeBLANC  
CSR No. 6713

--oOo--

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3:09 P.M.

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STATE OF CALIFORNIA

--000--

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

--000--

WEDNESDAY, APRIL 15, 2009

3:09 P.M.

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MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

DONALD B. KOCH, Director, Department of Fish and Game

DAVID R. SHAW, Inspector General of the Department of Corrections and Rehabilitation

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**PROCEEDINGS**

CHAIRMAN STEINBERG: Good afternoon. The Senate Rules Committee will come to order.

Please call the roll.

MS. BROWN: Senator Cedillo.

Dutton.

SENATOR DUTTON: Here.

MS. BROWN: Dutton here.

Oropeza.

SENATOR OROPEZA: Here.

MS. BROWN: Oropeza here.

Aanestad.

SENATOR AANESTAD: Here.

MS. BROWN: Aanestad here.

Steinberg.

CHAIRMAN STEINBERG: Here.

MS. BROWN: Steinberg here.

CHAIRMAN STEINBERG: Thank you very much. We do have a quorum established.

Good afternoon everybody, Members, staff, members of the public. Today we have two gubernatorial appointments who are required to appear before the Committee: Donald B. Koch as director of the Department of Fish and Game, and David Shaw as the inspector general of the Department of Corrections and

1

Rehabilitation.

Let us begin with Mr. Koch, who has appeared before the Committee before. Mr. Koch, welcome back.

MR. KOCH: Thank you.

CHAIRMAN STEINBERG: How have you been?

MR. KOCH: I've been having an entertaining and fun time.

CHAIRMAN STEINBERG: I'm sure you have.

Let me -- Mr. Koch was before the Committee several weeks ago, and I think it's fair to conclude that we all -- or at least I felt positive about his presentation and about his performance, and yet unsatisfied, frankly, with the performance of the department itself, and specifically, around two major issues. One is the suction-mine-dredging issue. The second issue is an even more important issue around the state, our salmon fishery resource in this state.

And we want to take some time today to talk more about that, in addition to a couple of other issues, and to explore, you know, just what the department and the administration intends to do with regard to these two crucial issues. And so let's get started.

MR. KOCH: Sure.

CHAIRMAN STEINBERG: Okay.

2

1 Senator Dutton, I understand that you have a  
2 couple of questions that you wanted to ask Mr. Koch.  
3 SENATOR DUTTON: Yeah, I do.  
4 CHAIRMAN STEINBERG: Go ahead.  
5 SENATOR DUTTON: If I could, please.  
6 Mr. Koch, how are you doing this afternoon?  
7 MR. KOCH: Hi, Senator. Thank you.  
8 SENATOR DUTTON: My questions pretty much  
9 specifically have to do with the Marine Life Protection  
10 Act.  
11 MR. KOCH: Yes, sir.  
12 SENATOR DUTTON: Back when that was first  
13 considered by the legislature, it was estimated to have  
14 a cost of roughly around \$250,000, as I've been told,  
15 but it would appear as though today's cost is now  
16 projected to be in excess of \$35 million.  
17 I'm just kind of curious where the department  
18 plans -- What's your financing plan for this, or are you  
19 planning to bring it back to the legislature?  
20 MR. KOCH: Very good and topical question,  
21 because we had a commission meeting -- Fish and Game had  
22 a commission meeting last week where we talked about  
23 this, and the \$250,000 original proposal was what the  
24 department felt it would cost to staff up this initial  
25 planning effort. And as folks are aware, that was -- it

3

1 was not a successful effort at the start, and it wasn't  
2 until we engaged a series of partners, collaborative  
3 partners, that we really got a good planning process up  
4 and an implementation process up.  
5 And one of the things we pointed out during the  
6 commission meeting is the importance, obviously, of the  
7 Act in managing the systems on an ecosystems basis; but  
8 also I was, quite frankly, stunned when I learned all  
9 the figures of what that public-private partnership was.  
10 And as we looked at the Channel Islands, the central  
11 coast, the north central coast, and now as we move to  
12 the south coast, there's a contribution to -- both to  
13 planning and implement that. It's been over 50 percent  
14 contributed by private sources, a variety of  
15 foundations, other agencies, and that's sort of a  
16 minimum estimate. Sometimes we don't know what amount  
17 of funding the Coast Guard or others may have put in  
18 because of all the other trust responsibilities we have.  
19 SENATOR OROPEZA: Is your mic on? Could you  
20 move it a little closer. I didn't mean to interrupt  
21 your flow.  
22 MR. KOCH: That's fine. I appreciate it.  
23 Sorry. I should know better.  
24 And so right now, we recognize we're never  
25 going to be able to do it without these partners; but

4

1 when you look at the estimates that were developed in  
2 that planning process, there was a wide variety of  
3 estimates that were put out there, and that was based on  
4 experiences across the globe and what was reported in  
5 the literature.  
6 SENATOR DUTTON: Let me try to cut to the  
7 chase. I appreciate that, and I know things change, and  
8 sometimes it can be a moving target in this building.  
9 MR. KOCH: Right, right.  
10 SENATOR DUTTON: But is it \$35 million that  
11 we're looking at?  
12 MR. KOCH: I would have to get the figures.  
13 It's not necessarily 35. We can talk about what we've  
14 expended to date.  
15 SENATOR DUTTON: I don't care about your  
16 expenditures to date. What I'm concerned about is your  
17 embarking on a plan, okay, without any idea at all, or  
18 without any vision, or not caring about how we're going  
19 to pay for it.  
20 I'm having a hard enough time now grappling  
21 with the \$8 to \$10 billion problem we still have today,  
22 even with having all the tax increases, and now you've  
23 got something else that somebody is having us go forward  
24 with. The legislature needs to have accurate  
25 information before you start going forward and start

5

1 committing. So that's what I'm trying to get to,  
2 because it isn't just the Marine Life Protection Act by  
3 itself. It's also some of the components. Because now  
4 you're talking about --  
5 Well, let's go on to, maybe, the north central  
6 coast phase of it. What is the department's estimated  
7 cost just for that phase? Forget about the whole thing.  
8 How about just that phase?  
9 MR. KOCH: I think we can -- the reason --  
10 I'm certainly not trying to be evasive, because  
11 it's an expensive endeavor, it's a necessary endeavor;  
12 and, again, I want to repeat there's no way we can do it  
13 without partners. But part of trying to estimate the  
14 price tag down to a precise number, which a lot of  
15 people would like to see, is -- some of the requirements  
16 of the Act develop -- require monitoring plans be  
17 developed, for example. That's in a process right now,  
18 a very open and public process. So until folks say,  
19 "Here's the range of what it's going to cost for  
20 monitoring; here's what we can really afford," it's  
21 difficult.  
22 So that's why I keep going back to our learning  
23 experience in the areas that we spend. If I remember  
24 off the top of my head, and I appreciate the opportunity  
25 to get you the numbers back, we spent around 2-1/2 -- in

6



1 the north central -- million dollars last year, the  
2 department, and that's not including things that we  
3 already do as part of our trust responsibility surveys  
4 for species.  
5 Next year in the department's budget, '09-'10  
6 budget, we have -- I believe it's \$4.8 million  
7 specifically allocated to MLPA issues. That's our total  
8 specific line-item allocation.  
9 Again, we take information from the  
0 department's abalone program and from others and feed  
1 that in, so that's a very minimum estimate. But right  
2 now, I can tell you that's what I'm planning as director  
3 to....  
4 SENATOR DUTTON: What I would appreciate as a  
5 legislator is, and I won't speak for everybody, but I'm  
6 trying to grab ahold of the whole thing, and I'm having  
7 a hard time doing that.  
8 When we put together a program, one of the  
9 concerns I've always had is we start embarking on these  
0 plans, and sometimes we put tremendous burden on Fish  
1 and Game without any concept of what it's going to cost.  
2 But when it's coming through the legislature, it says  
3 250,000, let's say, but then when you actually start  
4 looking at it, it turns out it's a lot more.  
5 Well, it would have been nice if somebody would  
6  
7

1 have said something to the legislature before they  
2 passed on the responsibility, thinking it was 250 and  
3 then it turns out you need a lot more. Just like the  
4 north central coast phase, in an earlier report from the  
5 Fish and Game staff, it was estimated it could cost  
6 \$13 million.  
7 I'll go back to the same question: Where are  
8 you going to get this money? Are you going to come back  
9 and say, "Okay. Now that you've started going down this  
10 path -- We're sorry we didn't tell you beforehand, or  
11 somebody didn't at least prepare you, but we need you to  
12 give us another \$13 million here, and we'll just shut  
13 everything down until we figure out -- until you give us  
14 the money so we can figure out for sure what problem we  
15 have."  
16 My understanding is, part of this is that we're  
17 trying to also determine what's causing our problems and  
18 what's our plan of action to make it better and become  
19 better stewards, but we don't even know what the problem  
20 is that we're trying to solve, exactly, right now. Tell  
21 me if I'm wrong. I mean, that's my impression.  
22 MR. KOCH: I think with anything, especially in  
23 the scientific arena, you can spend a tremendous amount  
24 of money collecting information and have very -- you  
25 know, robust data sets and precise information. I think  
6  
8

1 that when you look at what's out there, I think there's  
2 a general understanding where those problems are, so  
3 what we're going to be doing is trying to figure out as  
4 we develop and learn the modern expertise that we've  
5 done and with the partners have found, we can do  
6 programs at various levels of funding, and right now  
7 I've got 4.8 identified specifically, so more than  
8 250,000.  
9 But I don't -- It is not possible for me to  
10 give you an accurate number, because the accurate hasn't  
11 been defined or adequate.  
12 SENATOR DUTTON: I assume, then, that you're  
13 not going to actually try to implement the program until  
14 such time that you have a funding source determined.  
15 MR. KOCH: The commission makes a decision  
16 about implementing the program, and they're going  
17 through that public review process right now in the  
18 north central coast.  
19 We are actively engaged in the Southern  
20 California planning program, as well as engaged with the  
21 Department of Resources in the central coast and already  
22 in the north central coast here.  
23 SENATOR DUTTON: Well, assuming for a minute  
24 that there is no funding provided for implementation,  
25 you know, by the legislature, or from any other sources,  
6  
9

1 what Fish and Game programs would you suggest that we  
2 eliminate, or laws would you suggest we might stop  
3 enforcing in order to be able to implement the MLPA?  
4 MR. KOCH: I would make tough choices. We have  
5 4.8 this coming fiscal year, and I'll do the best that I  
6 can with that. I think to imply we would quit enforcing  
7 regulations or quit collecting data for the marine  
8 environment is not -- not something we can do within our  
9 trust environment.  
10 SENATOR DUTTON: I would agree with you.  
11 MR. KOCH: So I will continue to....  
12 SENATOR DUTTON: So what I'm trying to get  
13 around to: You have new programs that sound like  
14 they're going to cost multimillion dollars. I'm just  
15 trying to get a handle on it. Can I get assurances from  
16 you that you're not going to come to the legislature for  
17 any money for this; you'll figure out a way to do it  
18 within your existing resources?  
19 CHAIRMAN STEINBERG: If you can.  
20 SENATOR DUTTON: Go ahead.  
21 CHAIRMAN STEINBERG: No.  
22 SENATOR DUTTON: I'm actually towards the end.  
23 MR. KOCH: Sir, as you know, the governor comes  
24 to you with what resources, and I'll continue to work  
25 with the Natural Resource Agency and move our process  
6  
10

1 through that and certainly respect that process and the  
2 wisdom that comes out of it.  
3 SENATOR DUTTON: Well, my big concern is I  
4 actually have the greatest respect for the Fish and Game  
5 environment and the men and women in uniform that  
6 actually help and support it. I am concerned about it  
7 fulfilling our basic mission without embarking on  
8 additional things, without providing you the resources.  
9 So it's not so much a criticism of you as it  
10 is -- I'm a little concerned about where the  
11 administration is going and what we do as a body when we  
12 put these tasks before you without providing you the  
13 financial resources.  
14 I do think it's important to get that feedback,  
15 and I would appreciate if you would give me that  
16 information so at least I can share it with my  
17 colleagues that while some people may have thought it's  
18 going to be 250, this thing is going to get into the  
19 millions of dollars, and we do need to have a finance  
20 plan. We want to do it right.  
21 MR. KOCH: Yes, sir.  
22 CHAIRMAN STEINBERG: Thank you, Senator Dutton.  
23 I want to follow up, because it's interesting.  
24 Is the 250 or beyond 250 for implementation of  
25 the MLPA for enforcement itself, or for testing, or some

11

1 other aspect of the Act?  
2 MR. KOCH: The current budget we have, which,  
3 again, has gone through all the legislative processes  
4 and budget processes, is 4.8, and that is for our trust  
5 responsibility. So it includes enforcement, it includes  
6 our monitoring, it includes public outreach, and our  
7 work in the planning process.  
8 I want to emphasize, for example, in the budget  
9 that was just approved by the legislature and the  
10 governor, 19 new wardens were approved in that budget,  
11 and although not directly MLPA, we made the decision to  
12 make those MLPA marine-focused wardens.  
13 CHAIRMAN STEINBERG: I think Senator Dutton  
14 makes a fair point, but I would say that, right or  
15 wrong, we often pass laws, for example, in the criminal  
16 penalty area where we enhance penalties, but we don't  
17 necessarily increase prison capacity. We don't  
18 necessarily increase the number of law-enforcement  
19 officers to be able to implement the enforcement piece  
20 of the law. We hope that the law itself might act as a  
21 deterrent towards a particular behavior that we want to  
22 prohibit.  
23 So it's not always -- Enforcement, of course,  
24 is important, but it's not like it's a unique situation  
25 that the department would not have the full amount of

12

1 resources to fully enforce.  
2 SENATOR DUTTON: I guess where I was coming  
3 from, and you just reminded me of something --  
4 Right now, we do have the central coast plan  
5 that's in effect. So we actually have experience with  
6 that, knowing what the cost is. You're currently doing  
7 that. So why, using that as a model, couldn't we  
8 determine what the balance of the cost is going to be  
9 for the rest of the plan?  
10 MR. KOCH: I can tell you what we are spending  
11 as a department in the central coast. The concern is  
12 that -- and that will give you some sideboards of what  
13 to expect in the north coast. But as you move --  
14 SENATOR DUTTON: I understand.  
15 MR. KOCH: So there are extreme differences in  
16 cost based on the actual physical location sometimes.  
17 SENATOR DUTTON: Well, it certainly won't be  
18 any less than what the central coast plan is, right?  
19 MR. KOCH: When you look at the amount of money  
20 the partners are spending, it is more than Fish and Game  
21 is contributing.  
22 SENATOR DUTTON: Well, how much is the central  
23 coast spending?  
24 MR. KOCH: I will make sure you get it tomorrow  
25 morning.

13

1 SENATOR DUTTON: I agree with what Senator  
2 Steinberg has said, and that's the reason why even  
3 rehabilitation programs, frankly, cost more. They sound  
4 like they're great goals and objectives, but sometimes  
5 we don't have the resources to actually make those work  
6 either. So that's also part of the problem.  
7 And I think we need to be more realistic, and  
8 that's my concern, namely, with Fish and Game.  
9 Recently, we just read there was a bear that poachers  
10 had killed the mother, and the bear is now down at Wild  
11 Haven down in my area. I want to thank Fish and Game  
12 for making that connection, that we do have a preserve  
13 down there to kind of help. This poor little cub was  
14 too little to ever be put back into the wild, because  
15 its mother was killed prematurely.  
16 You know, it's not necessarily that having more  
17 officers would have helped prevent that, but poaching is  
18 a real problem in our state, and it is one of our basic  
19 functions that we don't do very well, because we have  
20 purposefully understaffed Fish and Game, and we don't  
21 have sufficient wardens out there.  
22 I'll make clear to you, I'll keep bugging  
23 everybody about that. It certainly is going to be  
24 forefront on my mind, because I do like to make sure  
25 we're fulfilling our basic mission. But I do have

14



1 concern about an expensive program like this,  
2 implementing something and not knowing for sure, you  
3 know, exactly where we're going or how we're going to  
4 pay for it, and how we're going to get there.  
5 So I'd appreciate maybe some insight to some  
6 type of financing plan on how we're going to go -- and  
7 what we need to expect the legislature to have to  
8 provide in order to go forward.  
9 Thank you.  
0 MR. KOCH: Certainly.  
1 CHAIRMAN STEINBERG: We want to move on to  
2 salmon. It's a serious topic, but when you find small  
3 moments of levity, you just can't let them pass. And  
4 that is: The staff report here, What happened to the  
5 man in San Diego who was arrested for the fourth time in  
6 the La Jolla conservation area for poaching lobsters,  
7 and what happened during one of his arrests when he was  
8 found with six undersized lobsters hidden in his pants?  
9 SENATOR AANESTAD: Ouch.  
0 SENATOR DUTTON: That must have been real  
1 painful.  
2 CHAIRMAN STEINBERG: We'd like to have a  
3 medical expert brought in the hearing, please, to --  
4 Okay.  
5 (Laughter.)

15

1 CHAIRMAN STEINBERG: Okay.  
2 SENATOR OROPEZA: Good question, Senator.  
3 CHAIRMAN STEINBERG: Thank you. A little  
4 levity.  
5 That was a very serious subject, and the  
6 following subject is also very serious, and that's this  
7 issue of salmon. Even in the interim period between  
8 your first hearing and today, it's gotten worse. I  
9 mean, the reports have gotten worse. And you heard our  
10 expressed frustration last time, not so much directed at  
11 you personally, but directed at the department, directed  
12 at the administration.  
13 We had follow-up meetings with Secretary  
14 Chrisman, as you know, and, frankly, I must say I know  
15 no more. Senator Oropeza was present with me. We know  
16 no more than what we knew when you were first here in  
17 terms of what the department's intentions are, so I want  
18 to press hard here.  
19 MR. KOCH: Sure.  
0 CHAIRMAN STEINBERG: Last week at the Board of  
1 Forestry proceedings, your representative, Mark  
2 Stauffer, made a strong statement on your behalf  
3 supporting the initial rules package recommended by Fish  
4 and Game, which I believe there's some consensus around  
5 it being an aggressive approach to protecting salmon.

16

1 There are two things that bothered me. Number  
2 one, you've had temporary rules for nine years. What's  
3 taken so long to get to the finish line? Number one.  
4 And number two is: Instead of the original package that  
5 you recommended going out for public comment, I'm told  
6 that the package that's out for public comment has  
7 32 different options.  
8 Can you assure the Committee and the public  
9 here that the department will adopt expeditiously the  
10 option or options that most strongly protect the salmon  
11 resource in this state?  
12 MR. KOCH: Certainly. And I agree it's been a  
13 long time -- nine years, I think you mentioned -- and  
14 Mr. Stauffer, who I brought in to shepherd this,  
15 referred to that.  
16 I think two things: One is the reason there's  
17 30 options in front of you -- excuse me -- in front of  
18 the Board of Forestry is that that represents the  
19 viewpoints of all the parties that have been talking for  
20 a long time, including Fish and Game and the forest  
21 review committees.  
22 I think two things that are really important to  
23 remember and one of the reasons I asked Mr. Stauffer to  
24 deliver that very strong message was that in March of  
25 this year, I believe it was, the Fish and Game

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1 Commission and the board adopted their joint policy  
2 which for the first time really articulated the goal of  
3 both Fish and Game and the California Board of Forestry  
4 to try and strive for recovery, just not maintenance.  
5 That was an important part of the department's  
6 recommendation to push that through to the full board,  
7 because if it stayed in committee longer, quite frankly,  
8 it may have not been out of committee because of the  
9 contentious viewpoints, or the viewpoints.  
10 So I want to laud the full board members who  
11 agreed to advance this forward. And it does have 30  
12 options, and Mr. Stauffer told me -- I think it's  
13 180 pages right now. We're going to support the  
14 positions that we have supported through that process,  
15 and I think when you look at mixing and matching those  
16 30 options, there's significant improvements, especially  
17 in class two watersheds.  
18 CHAIRMAN STEINBERG: Who is "we"?  
19 MR. KOCH: Department of Fish and Game.  
0 CHAIRMAN STEINBERG: Department of Fish and  
1 Game. What about the secretary?  
2 MR. KOCH: Sir, I do have --  
3 CHAIRMAN STEINBERG: No. Have you had  
4 conversations with the secretary of the administration  
5 whether or not they back Mr. Stauffer's very strong

18



1 recommendations on your behalf?  
2 MR. KOCH: When we made -- Mr. Chrisman  
3 certainly supported my moving Mr. Stauffer here and the  
4 stance we've taken during the board hearings or to date.  
5 And in terms of -- of the policy statement we made in  
6 that, I think that speaks for itself. But I really  
7 can't....  
8 CHAIRMAN STEINBERG: So would it be a surprise  
9 to you if it came out any differently in the final  
10 regulations?  
11 MR. KOCH: I wouldn't want to suspect what that  
12 is, but I think if you look at the 30 options, there's  
13 parts and pieces of each of them that we would be  
14 pleased to see a significant progress made to restore --  
15 I don't think there's a -- at least to my knowledge, I  
16 haven't read all 30, that there's a single option that  
17 we're going to push to meet our objectives that are  
18 established in the policy, the Board of Forestry policy,  
19 Fish and Game, and that is recovery. So we're going to  
20 push for those.  
21 CHAIRMAN STEINBERG: Just to clarify for the  
22 record, Secretary Chrisman did support and does support,  
23 in fact, your -- the initial rule package as articulated  
24 by Mark Stauffer at the Board of Forestry here in the  
25 last week.

19

1 MR. KOCH: Again, I don't want to put words  
2 into Mr. Chrisman, but I can tell you I haven't had any  
3 negative feedback from anybody in the administration  
4 about the statement that I asked Mark to make.  
5 CHAIRMAN STEINBERG: I thought you had said  
6 earlier, and this is important to understand, because  
7 this is sort of the theme of the hearing a little bit,  
8 how much authority you actually do have to carry out  
9 your statutory responsibilities.  
10 Did Mr. Chrisman say to you before Mr. Stauffer  
11 went to the board that he supported the initial rule?  
12 MR. KOCH: Sir, I didn't ask him that question,  
13 and I think the fact that I didn't feel necessary to do  
14 that -- The administration has expressed support of me.  
15 That's why they nominated me. I certainly serve at the  
16 pleasure of the administration, but I haven't --  
17 I'm a long-time career employee, and I'm  
18 passionate about the resource. I was retired when I  
19 took -- you know, took this job, so I'm in a unique  
20 position to reach the brass rail of my career, so to  
21 speak. And I think....  
22 CHAIRMAN STEINBERG: Okay. What about timing?  
23 MR. KOCH: With the board package, sir?  
24 CHAIRMAN STEINBERG: Yes.  
25 MR. KOCH: I believe it is scheduled to be

20

1 posted on the Office of Administrative Law, and it goes  
2 through the public review process, I believe, in the  
3 next hearing to adopt those rulings, discuss them, is  
4 early June, mid-June.  
5 CHAIRMAN STEINBERG: And do you expect that the  
6 rules will be adopted in early June?  
7 MR. KOCH: Sir, I think that's a Board of  
8 Forestry decision based on their public discussion. We  
9 will certainly be active in that process.  
10 CHAIRMAN STEINBERG: Okay. What about  
11 dredging? Anything new you want to tell us?  
12 MR. KOCH: Certainly. As I mentioned when we  
13 got together in late February, that we were -- the  
14 complexities of that issue. We were -- I was complying  
15 with the department director with the statutes.  
16 We have since that time selected a contractor,  
17 the CEQA process is beginning, and we're on target to  
18 finish that and do a rule-making file by the end of  
19 2010. So we are on track and doing everything we can as  
20 fast as we can within the....  
21 CHAIRMAN STEINBERG: In the meantime, the  
22 practice continues and the permits are issued.  
23 MR. KOCH: That's correct, sir.  
24 CHAIRMAN STEINBERG: Again, I'm going to  
25 express my displeasure with that perspective and take it

21

1 up directly with the governor's office, and I'm going to  
2 keep pushing on that issue.  
3 All right. There's one more issue that has  
4 arisen since the last time we met, and that is the  
5 Committee has been contacted by several members and  
6 interest groups about a board of reclamation request  
7 that the department surrender 25 percent of its water  
8 allocation used for fish and wildlife for agriculture.  
9 Any response?  
10 MR. KOCH: Well, we haven't received that kind  
11 of request. I think what -- my understanding of the  
12 genesis of this concern, which is legitimate, is that  
13 there was a meeting, which I nor any Fish and Game  
14 employee was at, with several Congressional members  
15 discussing water issues and the effect of the drought,  
16 in a general topic.  
17 During that meeting somebody asked could the  
18 refuges who get 100 percent -- and I want to address  
19 that issue -- could they go back to 75 percent of their  
20 allocation. So to my knowledge, there was a question  
21 asked at a meeting, and we haven't received any request  
22 to do that.  
23 But I want to clarify, because when you read in  
24 the paper wildlife refuges got 100 percent allocation,  
25 and some people got zero, and some others got 100 as

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1 well, wildlife refuges in state, federal, and private  
2 refuges didn't get 100 percent what CVPIA says they  
3 need -- CVPIA says they need to function.  
4 What we have are two different levels of water  
5 there. One is bound for Fish and Game with a contract  
6 with the Bureau of Reclamation that is very complex and  
7 describes specific criteria when we can take the  
8 25 percent reduction. And that's a critically dry  
9 year -- that we're not in a critically dry year based on  
0 issues, so....

1 CHAIRMAN STEINBERG: So you would oppose any  
2 kind of diversion at this time from --

3 MR. KOCH: We're looking at all the information  
4 so I can be as informed --

5 What I wanted to do is emphasize it was a  
6 question asked in a meeting that we weren't there, and  
7 the complexities and the importance of those 19 refuges.  
8 I don't want people to perceive that's a duck issue.

9 The wildlife refuges support all sorts of  
0 water-associated birds, and some of them are listed,  
1 some of them are hunted. It also supports important  
2 fish and wildlife habitat for amphibians, for the reptiles.  
3 So it's a very serious issue to us. But I wouldn't say  
4 that I was -- when a member of Congress or the  
5 legislature asks me a question based on what a region is

23

1 doing, it's not an unreasonable question to ask; but I  
2 haven't been asked the question to respond to, so....

3 CHAIRMAN STEINBERG: Well, I suppose we're  
4 asking it here today.

5 MR. KOCH: Right. No. I appreciate that, sir.

6 CHAIRMAN STEINBERG: We just want to know. I  
7 mean, we just talked about the salmon crisis.

8 MR. KOCH: Right.

9 CHAIRMAN STEINBERG: And we want to know and  
0 have some comfort that there's not some decision in the  
1 works, or that you wouldn't support a decision to divert  
2 25 percent of the water to make the problem that we just  
3 discussed even worse.

4 MR. KOCH: Right. As I mentioned earlier about  
5 why I do the job I'm doing, and the mission, I hope it's  
6 clear, based on what I said, so....

7 But without the facts and without a question to  
8 me, I don't want to say -- I think the contract --  
9 They're 25-year contracts. They're not a two-page  
0 document to go through.

1 CHAIRMAN STEINBERG: Do we have other Members  
2 who would like to ask any questions?

3 SENATOR OROPEZA: You've covered all my issues,  
4 Mr. Chair. That's fine. I appreciate -- You did it in  
5 a fine way. I'm fine.

24

1 CHAIRMAN STEINBERG: All right. Let us hear  
2 from witnesses, then, and I'm going to, as I always do,  
3 ask witnesses to be brief. You know, actually, you're  
4 much more effective when you're brief and you give us  
5 the punchy -- so to speak -- line about why you feel  
6 strongly one way or the other about Mr. Koch's  
7 nomination. So let's ask the witnesses in support to  
8 please come forward.

9 Again, those who testified the last time don't  
10 need to come up -- don't need to come up and repeat the  
11 testimony from last time, because we've all watched the  
12 video at least 15 times.

13 Sir.

14 MR. ROSEN: Thank you, Mr. Chairman. My name  
15 is Rudy Rosen, and I'm director of western operations  
16 for Ducks Unlimited. In fact, I did come up here last  
17 time, and I did endorse the nomination last time; but a  
18 subject just came up, and I feel it necessary to address  
19 it, and that has to do with refuge water supply.

20 Not long after Mr. Koch received that question,  
21 I received a call from him. He wanted to explain the  
22 situation, and I'll tell you why. That says a lot about  
23 the determination of this gentleman to coordinate with  
24 the partners and the management of this resource,  
25 because the only way you can manage the water fowl

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1 resource in the central valley is cooperatively, state,  
2 federal, and private interests. And he explained the  
3 situation, as he just did.

4 And I'll just say one more thing before I  
5 leave, and that is that no refuge in the CVPIA system  
6 will receive 100 percent of its water this year.  
7 They're all going to be shorted to some degree or  
8 another, some as much as 60 percent, others less, and  
9 even if they receive that so-called 100 percent, because  
10 100 percent is not 100 percent. Like he said, there are  
11 two different levels of CVPIA water. In one case they  
12 may also receive 100 percent for one level, but they  
13 also may receive zero percent of the other level.

14 CHAIRMAN STEINBERG: Very good.

15 MR. ROSEN: Thank you.

16 CHAIRMAN STEINBERG: Well, that's further  
17 support for Mr. Koch.

18 Appreciate it very much, Mr. Rosen.

19 MR. ROSEN: Thank you.

20 CHAIRMAN STEINBERG: Next witness.

21 MR. GRADER: Thank you, Senator Steinberg and  
22 Members of the Committee. My name is Zeke Grader, and  
23 I'm the executive director for the Pacific Coast  
24 Federation of Fishermen's Association. We, among  
25 others, represent all of California's organized

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1 commercial salmon fisheries, the very same people that  
2 are out of business now for the second year in a row as  
3 a result of what's happened to our salmon fishery.  
4 The last hearing I came before you, we had no  
5 position. We had not met with Mr. Koch, and we had  
6 some -- voiced to you some serious concerns that we had  
7 with operation of the department. We continue to have  
8 many of the very same concerns; however, in the  
9 intervening time, my board did sit down and had a very  
10 frank and long discussion with Mr. Koch. And I think  
11 the feeling there is that the problems we're looking at  
12 primarily are not of his making so much as we continue  
13 to see continued interference by administrations going  
14 back a long ways in the operations of the Department of  
15 Fish and Game that have given us real problems in the  
16 operations of our fisheries and, we think, are at least  
17 partially responsible for the situation our salmon are  
18 in today.  
19 I think the board felt that Mr. Koch is  
20 probably the best qualified person we have had for the  
21 department probably since Seth Gordon. He was appointed  
22 by Governor Warren in 1954, so that gives you an idea, I  
23 think, of the feeling that Mr. Koch is qualified.  
24 We continue to have concerns, but we were  
25 elated -- and you mentioned, Senator Steinberg -- by the

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1 department's appearance before the Board of Forestry  
2 last week and the very strong presentation they made for  
3 the coho rules. Our concern now is not that Mr. Koch  
4 did not do his job, but whether the Board of Forestry  
5 will carry out and finally put in place the coho rules  
6 that we've needed for nearly a decade now to protect the  
7 salmon, because certainly those could have helped, in  
8 part, with our salmon situation today, but not all of  
9 it.

10 CHAIRMAN STEINBERG: Thank you.  
11 MR. GRADER: With that said, we are in support.  
12 CHAIRMAN STEINBERG: Thank you very much.  
13 Next. Again, brief, please.  
14 MR. SMITH: I can do this quickly. My name is  
15 Jimmy Smith. I'm the current chair of the Board of  
16 Supervisors of Humboldt County, but I'm here today as  
17 the supervisor with a number of north coast streams in  
18 my district. The Eel River, we talked about salmon.  
19 The Elk River, the Headwaters Forest, Pacific Lumber  
20 Company, Salmon Creek, the Mattole Valley, the Lost  
21 Coast, all in my district.

22 I am here today to support Mr. Koch, because he  
23 walked the walk. He walked beside me to make  
24 partnerships happen when we didn't have enough money.  
25 He is my partner in doing one of the biggest, in fact,

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1 the most significant watershed improvement/restoration  
2 project in Northern California, the estuary restoration  
3 of the Eel River, which I believe will improve fish  
4 passage for coho, for chinook salmon, steelhead trout,  
5 and cutthroat trout. It's a magnificent program. It  
6 only would have happened if Fish and Game would have  
7 stood up to the plate and said, "We will help you. We  
8 will manage this property. We will help you manage in  
9 addition for Aleutian geese," to help the economy, to  
10 help people in partnerships for the long-term, not just  
11 for six months.

12 For me, this is an honor. He has no idea that  
13 my wife and I traveled here today. We came on our own,  
14 on our own dollar, to make sure that we were here to  
15 support him. He's a gentleman. He's walked the walk.

16 CHAIRMAN STEINBERG: I think that says a whole  
17 lot. And thank you, Supervisor, for your service and  
18 for coming to the Capitol today. We appreciate it.

19 MR. SMITH: Thank you.

20 CHAIRMAN STEINBERG: Next.

21 MR. ROOS-COLLINS: Mr. Chair, Senators. I'm  
22 Richard Roos-Collins. I direct the legal services for a  
23 nonprofit law firm in San Francisco called the Natural  
24 Heritage Institute, and we represent conservation groups  
25 and public agencies in water matters, including efforts

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1 to recover salmon. I did testify here last time, and  
2 this time I will testify not about Mr. Koch's character,  
3 but instead about strategy.

4 In my view, salmon recovery is not just about  
5 what the law says or the policy of the department, but  
6 instead how the law and policy are administered, and  
7 that's because the challenge of salmon recovery is  
8 tremendous. Many limiting factors. Many stressors  
9 affect salmon recovery.

10 What Mr. Koch has done in the Klamath and also  
11 is doing in the bay delta is moving strategy in the  
12 direction of multiple species in higher habitat  
13 communities and also collaboration with all of the  
14 effective stakeholders so that we actually achieve the  
15 result, not just on paper but in fact. He is about  
16 strategy, effective strategy, for salmon recovery. For  
17 that reason, again, I come before you to plea that you  
18 support his nomination. Thank you.

19 CHAIRMAN STEINBERG: Thank you.

20 Next.

21 MS. DELFINO: Good afternoon. My name is  
22 Kim Delfino, and I'm the California program director for  
23 Defenders of Wildlife, and we did not testify  
24 previously, but we are supportive of Mr. Koch's  
25 confirmation as Fish and Game director.

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1 I do want to say that I thank the Committee for  
2 the airing of various issues that folks have had with  
3 certain problems that have been identified within the  
4 Department of Fish and Game, the salmon issue, and then,  
5 most recently, the issue that came up over the refuge  
6 water supply.

7 We certainly hope that if a formal question is  
8 posed to the Department of Fish and Game, that Fish and  
9 Game would adhere to its CVPIA contracts and continue to  
0 have a full level-two water supply to the refuges.

1 I just want to say that in the years that I  
2 have worked with the Department of Fish and Game, I have  
3 to really appreciate Mr. Koch's openness and willingness  
4 to meet with the nonprofits even when we don't always  
5 share a common viewpoint.

6 I have to say that he has probably been one of  
7 the most open and receptive directors that I've worked  
8 with in a long time, and I really also appreciate the  
9 fact that while I think he really does have the best  
0 interest of fish and wildlife and public trust at heart,  
1 I really appreciate the fact that the Rules Committee  
2 has raised the issue about while a director may have the  
3 best interest at heart, where the larger administration  
4 is going. And I would hope that the Committee and that  
5 the Chairman would continue with some of this oversight

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1 on some of these issues to make sure that we actually --  
2 the issues that were raised and addressed, actually  
3 follow through to the right end. And I appreciate you  
4 listening to our views. Thank you.

5 CHAIRMAN STEINBERG: Thank you very much,  
6 Ms. Delfino.

7 Hello, sir.

8 MR. ADDIS: Good afternoon, Mr. Chair and  
9 Members. My name is Reed Addis. I'm here on behalf of  
0 the Ocean Conservancy in support.

1 Our support should not diminish the concerns  
2 raised by the Chair and our colleagues. We understand  
3 those are important issue, and we do hope the Senate  
4 will pursue looking into those issues; but we sincerely  
5 believe the confirmation of Mr. Koch is important to the  
6 state, and it's the best thing the state can do.

7 In particular, the Ocean Conservancy is very  
8 interested and has been very happy with Mr. Koch as he  
9 has been working to implement the Marine Life Protection  
0 Act, which was mentioned earlier today. We believe it's  
1 a landmark piece of legislation, and we think he's done  
2 a yeoman's effort in trying to implement that and  
3 believe his efforts will be successful for the future.

4 Thank you very much.

5 CHAIRMAN STEINBERG: Thank you, Mr. Addis.

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1 Other witnesses in support.

2 MR. GAINES: Mr. Chair and Members of the  
3 Committee, my name is Bill Gaines. I'm president of the  
4 California Outdoor Heritage Alliance, an organization  
5 that represents over 30 wildlife organizations.

6 We did testify previously in support of  
7 Mr. Koch. I'm very pleased to be here today in support  
8 of Mr. Koch. I had the pleasure of working with him  
9 one-on-one back in 2001 during the Klamath water crisis  
10 in dealing with the water shortage up there and trying  
11 to find water for wetlands --

12 THE REPORTER: Can you slow down, please.

13 MR. GAINES: I've had the pleasure of working  
14 with him over the course of the last year or so in his  
15 stint as director as well.

16 We are very concerned about the possibility of  
17 losing 25 percent of the level-two refuge water supply.  
18 That's not just duck water. That is water that provides  
19 spring and summer needs for a --

20 CHAIRMAN STEINBERG: Slow down.

21 MR. GAINES: -- variety of our state's wildlife  
22 species, many of which are threatened and endangered, so  
23 we hope to work closely with the department to see that  
24 the water goes where it needs to go to support the  
25 wildlife on the state wildlife areas. Thank you very

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1 much.

2 CHAIRMAN STEINBERG: Thank you, sir.

3 Any other witnesses? Are there others lining  
4 up back there? One more. Okay.

5 MR. OBEGI: Good afternoon, Mr. Chair and  
6 Members of the Committee. I'm Doug Obegi, an attorney  
7 with the Natural Resources Defense Council.

8 I'm here today to support Mr. Koch's  
9 confirmation. We have worked with him over the last  
10 year or so. He has had an open-door policy with us.  
11 He's been very forthcoming. We're not going to always  
12 agree, but we think that he has the capacity and the  
13 leadership to help rebuild the department for the  
14 future.

15 With a number of key issues facing the  
16 department over the coming years, particularly important  
17 for us is what happens in the delta and making sure that  
18 we restore our salmon for future generations to enjoy.  
19 I think that he has his heart in the right place, and I  
20 look forward to working with him for the next couple  
21 years. Thank you.

22 MR. TERRELL: Good afternoon, Mr. Chair and  
23 Members of the Committee. Kristopher Terrell on behalf  
24 of Audubon California and the Nature Conservancy. I'll  
25 keep this short.

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1 We endorse the nomination of Mr. Koch. Thank  
2 you very much.  
3 CHAIRMAN STEINBERG: Thank you very much. Very  
4 effective testimony.  
5 (Laughter.)  
6 MR. WESELOH: Boy, that's a tough act to  
7 follow.  
8 Good afternoon. I'm Tom Weseloh with  
9 California Trout. We did present concerns when we were  
10 in front of the Committee before. We appreciate the  
11 fact that the Committee took those concerns seriously  
12 and brought them to the administration and pursued them.  
13 We still believe those concerns need to be followed up  
14 on.  
15 We do appreciate the department's  
16 recommendation at the Board of Forestry, and we do look  
17 forward to working with the legislature, with the folks  
18 on this Committee, and with the department and director  
19 of Fish and Game to make sure that we do recover fish  
20 and we do recover salmon, because, as you clearly  
21 articulated, things have gotten worse since we were here  
22 last, and we find the burden always put on the backs of  
23 fishermen, and we would like to see habitat protection  
24 as the primary issue that we deal with so there's enough  
25 fish for all of us. So we look forward to solving those

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1 problems with the director. Thank you.  
2 CHAIRMAN STEINBERG: Thank you very much.  
3 All right. Are there any witnesses in  
4 opposition to the nomination? Sir.  
5 MR. NOWICKI: My name is Brian Nowicki. I'm  
6 here with the Center for Biological Diversity. I'm  
7 sorry to say the Center for Biological Diversity feels  
8 we have no choice but to oppose Mr. Koch's confirmation  
9 as director.  
10 SENATOR OROPEZA: Can you speak closer.  
11 MR. NOWICKI: Sure.  
12 CHAIRMAN STEINBERG: Lower it.  
13 MR. NOWICKI: I know most of the issues -- a  
14 lot of issues have already been covered in pretty good  
15 detail. I want to bring up one more related issue.  
16 Mr. Koch as director actively opposed, against  
17 the recommendations of department biologists, the  
18 California Endangered Species Act petition to lift the  
19 Pacific fisher which supports carnivore threatened by  
20 logging practices.  
21 In a memo from one department biologist -- In a  
22 memo, one department biologists said, quote, "Most of  
23 staff working on the evaluation concluded petition  
24 action may be warranted," end quote.  
25 Another one is Mr. Koch did, quote, "Look us in

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1 the eye and admit it was a political decision, apologize  
2 for much wasted time and demoralization of us  
3 scientists. Mr. Koch did his own independent analysis  
4 but did not check with his own field people who try and  
5 apply the rules," end quote. And "It strongly appears  
6 this decision was based on politics ahead of the  
7 consideration of the biological data even overruling  
8 recommendations expressed within the department."

9 Without a doubt, the department has a long  
10 history and culture of problems of politics being put  
11 ahead of special interests, and special interests ahead  
12 of policy and biology, and Mr. Koch can't entirely be  
13 held responsible for all of that.

14 I have met with Mr. Koch, and I found him to be  
15 quite thoughtful and very approachable. However, the  
16 department desperately needs a director who can set the  
17 department back on track and restore its commitment to  
18 science and protection of California's treasured  
19 wildlife. So, regrettably, given the actions and  
20 decisions during his tenure as director, including some  
21 of those that have been covered and the other issues  
22 before me, the Center for Biological Diversity must  
23 oppose his nomination right now.

24 CHAIRMAN STEINBERG: Thank you very much for  
25 your testimony, sir.

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1 Anybody else in opposition?  
2 All right. It is time to make a decision here,  
3 and I want to indicate, first of all, my thanks for your  
4 patience and your testimony before the Committee here,  
5 and I want to indicate my strong support for your  
6 nomination.  
7 I think, you know, we all agreed after the last  
8 hearing that you're a good, capable public servant, but  
9 I was impressed today by the breadth of the  
10 environmental testimony on your behalf today.  
11 We spent a lot of time, and I think rightfully,  
12 on some of our unhappiness with the lack of progress on  
13 so many issues, and it's our expectation that you are  
14 going to surpass the performance of this guy who was  
15 appointed in 1954, and that you're, in fact, going to --  
16 you're going to solve some of these problems.  
17 I know and you know that the governor does not  
18 want the salmon to disappear on his watch, and it has  
19 been nine years -- nine years of temporary regulations  
20 on this issue. And you've done your part in many  
21 respects by putting forward and recommending a very  
22 strong position on behalf of salmon restoration, and now  
23 we ask you to do everything you can to take it up the  
24 line, so to speak, and to make sure that you do  
25 everything you can to make that policy go into effect,

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1 and sooner rather than later.  
2 And then on the suction-dredging issue, you  
3 continue to, I think, at your -- we're going to push it  
4 at different levels to try to stop it pending the EIR.  
5 At your level, the best I think we can ask from you is  
6 to do everything you can to expedite that environmental  
7 review process so that one way or another, this comes to  
8 a head and this practice is limited, if not halted.  
9 So there's a lot of work to do, and big  
0 challenges, but you're obviously a good person, a good  
1 public servant, and I'm happy to support your  
2 nomination.  
3 Moved by Senator Dutton. No other comments.  
4 Please call the roll.  
5 MS. BROWN: Senator Cedillo.  
6 SENATOR CEDILLO: Aye.  
7 MS. BROWN: Cedillo aye.  
8 Dutton.  
9 SENATOR DUTTON: Aye.  
0 MS. BROWN: Dutton aye.  
1 Oropeza.  
2 SENATOR OROPEZA: Aye.  
3 MS. BROWN: Oropeza aye.  
4 Aanestad.  
5 SENATOR AANESTAD: Aye.

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1 MS. BROWN: Aanestad aye.  
2 Steinberg.  
3 CHAIRMAN STEINBERG: Aye.  
4 MS. BROWN: Steinberg aye.  
5 CHAIRMAN STEINBERG: Thank you very much,  
6 Mr. Koch. This will go to the floor either tomorrow or  
7 Monday --  
8 MS. BROWN: Tomorrow.  
9 CHAIRMAN STEINBERG: Tomorrow, because your  
0 deadline is the 21st of April.  
1 MR. KOCH: Thank you again, sir.  
2 CHAIRMAN STEINBERG: Thank you very much.  
3 (To the reporter): Ina, do you need a break?  
4 THE REPORTER: Yes. Can we take five?  
5 CHAIRMAN STEINBERG: Yes. Take a five-minute  
6 break.  
7 (Recess taken.)  
8 CHAIRMAN STEINBERG: The Committee will come  
9 back to order.  
0 Before we take up Mr. Shaw, I want to take up  
1 the consent calendar.  
2 MS. BROWN: The reference of bills.  
3 (Discussion off the record.)  
4 CHAIRMAN STEINBERG: Let's see. I'm sorry.  
5 And the governor's appointments. One and three here,

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1 please. Any objections to items one and three?  
2 If not -- Moved by Senator Oropeza.  
3 Please call the roll.  
4 MS. BROWN: Senator Cedillo.  
5 SENATOR CEDILLO: Aye.  
6 MS. BROWN: Cedillo aye.  
7 Dutton.  
8 Oropeza.  
9 SENATOR OROPEZA: Aye.  
10 MS. BROWN: Oropeza aye.  
11 Aanestad.  
12 SENATOR AANESTAD: Aye.  
13 MS. BROWN: Aanestad aye.  
14 Steinberg.  
15 CHAIRMAN STEINBERG: Aye.  
16 MS. BROWN: Steinberg aye.  
17 CHAIRMAN STEINBERG: Good. Those measures are  
18 out. Now some people can get on with their day. That's  
19 the way it is.  
20 Okay. I would like to take up file item 2B,  
21 which is the nomination of David R. Shaw as the  
22 inspector general of the Department of Corrections and  
23 Rehabilitation.  
24 Mr. Shaw, welcome to you.  
25 MR. SHAW: Thank you.

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1 CHAIRMAN STEINBERG: We have a tradition here  
2 in the Committee where we want to give you the  
3 opportunity to introduce any members of your family or  
4 special guests who are here with you today.  
5 MR. SHAW: Thank you, Mr. Chair.  
6 I would like to introduce my wife Sonya, who's  
7 an elementary teacher in San Juan Unified --  
8 CHAIRMAN STEINBERG: Ah, a real public servant.  
9 MR. SHAW: -- my daughter Natalie, who is a  
10 student in San Juan Unified, third grade; my daughter  
11 Jenny, who is a freshman at Sonoma State in Criminal  
12 Justice; and my sister-in-law, Shanette Swanson, from  
13 Stockton.  
14 CHAIRMAN STEINBERG: Welcome to all of you.  
15 Good to have you here.  
16 Mr. Shaw, why don't you begin with an opening  
17 comment, and then we'll have a few questions for you.  
18 MR. SHAW: Thank you, Mr. Chair and Members.  
19 Thank you for this opportunity to meet and discuss my  
20 qualifications to be the inspector general. It's an  
21 honor and privilege to be here this afternoon and to be  
22 Governor Schwarzenegger's nominee for inspector general.  
23 I'm deeply grateful for the trust and keenly aware of  
24 the responsibility placed in me to serve our state at a  
25 time of such great challenges and great opportunities.

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1 If I am confirmed, I will continue to pursue the duties  
2 of this office with gratitude, humility, and firm  
3 determination to represent the people of California as  
4 energetically and faithfully as I can.

5 I'm committed to helping CDCR become a model  
6 correctional agency and to ensure that its policies,  
7 procedures, and activities enhance our public safety,  
8 safeguard our staff, our inmates and our wards, protect  
9 our fiscal integrity, advance our state interests, and  
10 reflect the values of our citizens.

11 Our mission at the OIG is to act as the eyes  
12 and ears of the public in overseeing the state's prisons  
13 and correctional policies. I assure you that if I'm  
14 confirmed, I will continue to carry out this mission  
15 rigorously by investigating, monitoring, auditing the  
16 CDCR to uncover wrongdoing, poor management practices,  
17 fraud, waste, and abuse.

18 No matter how daunting our challenge may be,  
19 I'm steadfast in my belief in our state and our people,  
20 and I'm proud to be part of California's government at  
21 this time in history.

22 Thank you, Mr. Chair and Members of the  
23 Committee, for granting me your time and attention  
24 today. I will now be happy to answer any questions that  
25 you have.

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1 CHAIRMAN STEINBERG: Thank you. Would any  
2 members like to take it up?

3 Senator Romero -- I mean, Senator Oropeza.

4 SENATOR OROPEZA: Good afternoon.

5 MR. SHAW: Good afternoon, Senator.

6 SENATOR OROPEZA: I have several pretty  
7 specific questions that I would like to ask you. They  
8 all get to how you view your role, what the scope of  
9 your job is, as you see it.

10 And so let me begin by asking you about --  
11 well, let me ask you about -- One of the issues that  
12 came up when we were having discussions with the  
13 secretary --

14 When we recently interviewed the secretary, a  
15 couple of the items that came up had to do with money  
16 and also -- gosh, what's it called -- I'll start with  
17 money.

18 Secretary Cate acknowledged in his remarks  
19 before the Committee that there -- that there had been  
20 an allocation by the legislature to -- and an  
21 authorization for 250, I believe --

22 MR. HUGHES: Five twenty-five.

23 SENATOR OROPEZA: Five hundred and twenty-five  
24 beds for residential facilities for women.

25 MR. SHAW: Yes.

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1 SENATOR OROPEZA: All right. And yet when  
2 pressed on what has happened with that, I learned that  
3 there are only 25 beds currently.

4 MR. SHAW: In Sacramento, I believe.

5 SENATOR OROPEZA: Pardon me?

6 MR. SHAW: The ones in Sacramento?

7 SENATOR OROPEZA: Yes, the ones in Sacramento  
8 And also that this chunk of money -- a whole bunch of it  
9 went to the general fund, or is planned to go to the  
10 general fund.

11 I guess that -- That offends my sensibilities  
12 as a legislator who, through budget and policy, has said  
13 in clear direction to one of our departments, but it  
14 also offends my sensibilities that these facilities are  
15 very useful and productive for these women and that they  
16 are not getting the benefit of this opportunity to be  
17 put in these settings because of budget constraints.

18 That's my understanding from our response from Mr. Cate.

19 So my question for you has to do with how you  
20 view your role in terms of assuring some relationship  
21 between what has been funded and what actually becomes  
22 real in the department.

23 So I'd like to know how you see your piece of  
24 that in terms of, you know, accountability.

25 MR. SHAW: We engage in a number of activities

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1 that look at issues like that. If money is allocated  
2 for one purpose and ends up somewhere else, our  
3 auditors, our investigators, and attorney monitors would  
4 be very interested in that.

5 As we go out, we typically do programmatic  
6 audits which may have a fiscal impact, but we don't  
7 strictly do fiscal audits. At least we haven't  
8 traditionally done that. But if you look back in our  
9 history and in all of the reports that we've published,  
10 there have been times where money is supposed to have  
11 gone somewhere and it's gone somewhere else, or programs  
12 were started and other ones have been canceled and so  
13 on.

14 We do currently look at the receiver's budget,  
15 for example, in a fiscal sense, to look at their  
16 spending practice. In fact, our current audit is going  
17 on in that as well.

18 As far as looking at this particular issue, I  
19 first heard about it in here, that that program was,  
20 essentially, underutilized in both the residential and  
21 the outpatient, if you will, programs weren't going to  
22 go forward. That was news to us.

23 Part of what we do is -- By having our  
24 inspectors on the ground at every institution several  
25 times a year, our attorney monitors out, and the audits

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1 that we do try to pick up this kind of information, as  
2 well as the media and anyone that will talk to us.  
3 People will call us and tell us if there's a problem  
4 going on. We will do an initial inquiry, and if it  
5 merits something more, an investigation or an audit,  
6 we'll try to resource that and prioritize, of course,  
7 and take a look.

8 SENATOR OROPEZA: So if something is not -- If  
9 a program has not been funded and the money has been  
0 diverted to some other purpose, you would -- it's  
1 something that could very well be investigated by your  
2 offices, and then some kind of recommendations come  
3 forward to the secretary, or how does that work?

4 MR. SHAW: Yes. We would publish a public  
5 report. Everything that we do now, since our statute  
6 changed in 2005, is public. It's on our Web site. All  
7 of our reports, all of -- There are certain elements  
8 that can't be public, peace officer information and that  
9 sort of thing. There are statutes prohibitus, but,  
0 literally, everything else is public. So you would be  
1 able to look at it as a legislator, and, of course, any  
2 reports that we do, we also send over here as well. But  
3 we would make recommendations, yes.

4 SENATOR OROPEZA: So you have self-generated  
5 ideas for investigations as well as those that are

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1 mandated --

2 MR. SHAW: Yes.

3 SENATOR OROPEZA: -- through statute or some  
4 kind of --

5 MR. SHAW: I have the discretion, per the  
6 statute, to investigate or audit anything. My intake  
7 staff, which has changed fairly dramatically in the last  
8 year, we're taking leads and doing the preliminary  
9 investigation on them, and if it turns out once we've  
0 staffed them, if we think it has a systematic impact or  
1 a large impact, it would receive a priority, and we  
2 would go conduct an investigation.

3 That's how we determined there was a problem  
4 with administrative segregation within the department.  
5 And we, just a couple months ago, published a report  
6 that showed the department was spending to the tune of  
7 at least \$10 million more than needed to be spent to  
8 house people in administrative segregation that didn't  
9 belong there for a variety of reasons that were  
0 unrelated to whatever they had done to get themselves in  
1 there.

2 SENATOR OROPEZA: So would it be within your  
3 realm of responsibility to look at, for instance, the  
4 juvenile justice -- how it costs us so much to house a  
5 juvenile? I think it's \$250,000 for each juvenile, and

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1 I'm not sure what we're getting for it.

2 Just having done a little bit of digging on the  
3 programs that exist or don't, I'm not sure we're getting  
4 a lot for that 250. Is that the kind of thing that you  
5 would take a look at?

6 MR. SHAW: Yes. We're staffing for our next  
7 year's audits now, and we're going to look at something  
8 along those lines.

9 SENATOR OROPEZA: You are?

10 MR. SHAW: Yes, we are.

11 SENATOR OROPEZA: About how many of these kinds  
12 of investigations that are self-generated do you do on  
13 an annual basis?

14 MR. SHAW: For investigations themselves, we  
15 budget -- I think we're in the tune of about 20, but the  
16 pipeline investigation -- preliminary investigations, we  
17 can do, quite frankly, as many of those as I have people  
18 to do them.

19 Real programmatic audits, we're funded for  
20 about eight. So I have a couple discretionary ones in  
21 there that aren't related to the mandated ones, and we  
22 pick those very carefully.

23 But clearly, 250,000 per ward is an awful lot,  
24 considering what the recidivism rate is.

25 SENATOR OROPEZA: Right. On another topic, we

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1 heard also about contraband and cell phones being a real  
2 problem, and we did some follow-up and learned that  
3 really there are -- well, actually, it was listening to  
4 Senator Benoit. Senator Benoit has a bill which is  
5 sponsored by the department that would make taking a  
6 cell phone into a prison a misdemeanor.

7 But during that hearing I heard that -- or I  
8 learned that over 2,600 of those cell phones were found  
9 last year alone, and that they were predominantly in  
10 three sites, three prisons. Fifteen hundred of them  
11 were in only three sites. So there's a way to target.

12 Do you ever do that, where you target --  
13 Instead of looking at this system-wide, do you look at  
14 specific prisons and whether there may be need for  
15 reform in one or more prisons?

16 MR. SHAW: Because of our size compared to the  
17 department, we almost always do that. We will pick out  
18 representative prisons and go take a look at eight or  
19 ten and then extrapolate out. And that's what auditors  
20 do, and that's what we do for our size.

21 In particular to cell phones, we'll be  
22 releasing a report fairly soon. We've been working on  
23 it for a couple of months. We dug into it, and we're --  
24 a couple staffing issues that we had to replace somebody  
25 on it. But we're getting that out fairly quickly.

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1 SENATOR OROPEZA: Because, you know, there  
2 seems like there's a solution. It just needs somebody  
3 at some level to direct that or to say these are the  
4 solutions.  
5 We had a long conversation about security, and  
6 we know a lot of these come in through not just  
7 visitors, but staff, and how do we handle that. So,  
8 hopefully, your report will make recommendations --  
9 MR. SHAW: It will.  
10 SENATOR OROPEZA: -- on how to fix that  
11 problem. Great.  
12 And then finally I want to ask about juvenile  
13 time in their cells versus out in some other setting  
14 rather than their cell. Your office says that some  
15 recommendations have not been implemented from this  
16 audit, that out -- that basically brought that issue to  
17 light. And so what I'm wondering is: Who is  
18 accountable for the solutions? In other words, do you  
19 follow up when you make recommendations? Do you then  
20 follow up on whether they are actually implemented? Is  
21 that part of your mission also?  
22 MR. SHAW: Yes, Senator, we do that. When we  
23 make a recommendation following an audit or an  
24 investigation, which we've done -- originally called 23  
25 and 1, getting the wards out of their cells, we will go

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1 back on an accountability audit the following year and  
2 see how they've done that.  
3 We recently released our accountability audit  
4 of Stark, for example, and found that the wards that  
5 were in the special program or special management units  
6 were getting out for three hours a day. There was a  
7 step-down unit, the high-risk inmates or wards that  
8 potentially weren't, so I followed up on that just  
9 recently.  
10 As a matter of fact, just last week I took an  
11 auditor with me with former CYA experience, went down,  
12 and I went to every single ward on those units and asked  
13 them how long they got out. And the auditor that was  
14 with me looked at the records, looked at the logs, the  
15 electronic logs, but more importantly just asked the  
16 wards, and to a ward in the special management unit,  
17 they said, "Yes, we're getting out at least three hours  
18 a day." Unfortunately, the unit that covers the  
19 high-risk, the step-down, were only getting out two.  
20 I came back, and I immediately provided that  
21 information to the department, and the next day, they  
22 were at Stark addressing those concerns.  
23 SENATOR OROPEZA: Was that the normal process,  
24 or did that come to light after our discussion here? I  
25 mean, is that how that would usually go down? You would

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1 have an initial audit and then a follow-up look the  
2 following year, and then you would, as part of that  
3 follow-up, go and check? Is that how it works?  
4 MR. SHAW: Normally, it wouldn't be me  
5 personally.  
6 SENATOR OROPEZA: No, I don't mean you.  
7 MR. SHAW: Sure. In the DJJ area, for example,  
8 we take it very seriously, just looking at such an  
9 at-risk population. So we have sent people out at odd  
10 hours, unannounced, to go check in between. I can't  
11 wait a year at a time to see if they fixed things that  
12 are that critically important.  
13 So in this particular situation, yes, we would  
14 go out. We came unannounced, and we walked, and I was  
15 pleased that most of the issues that we identified a  
16 year ago seemed to be resolving. The accountability  
17 item had been fixed. Several things hadn't, and some  
18 new things came to light. They had cold showers, and I  
19 said, "Prove it to me that they're not." And they  
20 turned them on, and we waited and waited and waited, and  
21 they were still cold ten minutes later. And that was  
22 the biggest concern that the wards had on that unit, and  
23 so they fixed it. I've been told they fixed it. We'll  
24 see.  
25 SENATOR OROPEZA: So that is your standard --

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1 I'm completely in my comments. So that is your standard  
2 procedure, would be that as part of the follow-up a year  
3 after the audit is conducted, would be some on-site  
4 checking to see if the remedies have actually been done?  
5 MR. SHAW: The people who do that are  
6 inspectors who go out twice a year and just walk and  
7 talk for a couple days, take in as much information as  
8 they can. And part of their checklist, if you will, is  
9 to address any findings that we had that were negative  
10 that we want to check on in between the next  
11 accountability audit and the next called audit.  
12 SENATOR OROPEZA: If there's an employee of the  
13 department that wants to share information with you  
14 about a potential problem and does not want their name  
15 on it, how does that work?  
16 MR. SHAW: It depends on the type of  
17 information they want to share. There are certain --  
18 Retaliation, for example, I can't necessarily protect  
19 that name, because it has a legal consequence that if it  
20 goes forward, we'll probably have to disclose. But if  
21 someone wants to tell us about a problem, it comes to us  
22 one of several ways. They can send us an anonymous  
23 letter; they can call the 800 number and talk to someone  
24 or leave a message. And if they present a serious  
25 enough case, as we triage that there's a real problem

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1 going on, we'll go take a look.  
2 And we listen to everyone, the families, the  
3 attorneys of the family, and wards or inmates that send  
4 us letters, and depending on what they tell us, we will  
5 get back to them.  
6 SENATOR OROPEZA: Or employees. Frankly, what  
7 I'm thinking about is: If there are employees that find  
8 that there are some things going on that are not -- if  
9 they want to whistle-blow, in essence, what kind of  
10 coverage can you give them, or protections can you give  
11 them?  
12 MR. SHAW: We can protect them up to a certain  
13 point. If they tell us, for example, that there's  
14 program abuse or something, then their name is never  
15 going to come forward. If it's an allegation that  
16 involves --  
17 SENATOR OROPEZA: Cell phones coming into a  
18 prison illegally.  
19 MR. SHAW: Their name is not going to be  
20 disclosed if they tell us about cell phones. That's  
21 easy. If they tell us about some other things that have  
22 to be investigated by law, it gets a little more  
23 complicated.  
24 SENATOR OROPEZA: Can you give me an example of  
25 that? Where is the line drawn?

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1 MR. SHAW: They tell us that they're being  
2 sexually harassed. As we move that forward, there's --  
3 and they've been retaliated for complaining or  
4 something, it's going to be really difficult to protect  
5 their identity.  
6 SENATOR OROPEZA: All right. Thank you.  
7 CHAIRMAN STEINBERG: Thank you very much,  
8 Senator Oropeza, for opening it up.  
9 I want to step back a little bit from the  
10 specifics and ask a couple basic questions, and this is  
11 for the public as well as for the Committee.  
12 Who does the inspector general report to?  
13 MR. SHAW: The public.  
14 CHAIRMAN STEINBERG: The public. So once you  
15 are confirmed, you essentially have unfettered  
16 discretion to look wherever you deem appropriate to  
17 improve the performance of the department.  
18 MR. SHAW: Within the constraints of my budget.  
19 CHAIRMAN STEINBERG: Aha. There is a  
20 check-and-balance. Always. Right.  
21 SENATOR OROPEZA: Purse strings.  
22 CHAIRMAN STEINBERG: But other than that, you  
23 report to the public?  
24 MR. SHAW: Correct.  
25 CHAIRMAN STEINBERG: So it begs, Mr. Shaw, the

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1 broader question that I wanted to explore with you,  
2 which is: Beyond the statutory definition, which I know  
3 is where you start, of inspector general, how do you  
4 view your job? What is your job? You mentioned  
5 auditing. You mentioned investigation. What is your  
6 job?

7 MR. SHAW: My job, I believe, is to be your  
8 eyes and ears and the eyes and ears of the public and  
9 every other stakeholder that doesn't have a view daily  
10 inside CDCR in their parole regions, in their prisons.  
11 That's primarily what we do. We're going to expose  
12 issues that the public and the legislature and the  
13 governor's office and everyone else might not otherwise  
14 know about. That is back to our statute. That's what  
15 we do.

16 I also see our mission -- or my duty, if you  
17 will, is to try to get positive change from the things  
18 that we develop as a problem. Otherwise, if our  
19 recommendations or the issues that we develop are never  
20 followed up on, then we really have very little value  
21 other than what, perhaps, you can do to the department  
22 in budget hearings and so on.

23 CHAIRMAN STEINBERG: Do you view your job as --  
24 more akin to an auditor or reviewer of specific  
25 department programs, or more as a criminal justice

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1 leader?  
2 MR. SHAW: As a criminal justice leader who  
3 also audits, investigates, and monitors.

4 CHAIRMAN STEINBERG: So, for example, it's no  
5 great secret that the federal courts are partly in  
6 charge of our correctional system in large part because  
7 of our overcrowding situation. And so do you view it as  
8 part of your role to opine on issues like sentencing  
9 reform?

10 MR. SHAW: I tread carefully in areas like  
11 that. I've worked closely with the federal courts in  
12 several of the large civil rights cases, the  
13 class-action suits, *Plata, Madrid*, and so on, but I want  
14 to make recommendations as a traditional IG does after  
15 we have investigated or audited something where --  
16 rather than just having my own personal opinions. And  
17 having worked in the criminal justice system my entire  
18 career, I have a lot of them. But I like to come in on  
19 the heels of an audit or investigation, make  
20 recommendations, and in those recommendations I think my  
21 opinions are pretty evident where we think the  
22 department or the state should move.

23 For me to step forward and say we should have a  
24 sentencing commission without doing any field work puts  
25 everything else that we do at a little bit of risk,

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1 because we are covered by the GAGA standards, or the IG  
2 standards -- the generally accepted government auditing  
3 standards -- and things like that, that we normally do  
4 as an Inspector General's Office.

5 In the context of something we've looked at, I  
6 see no issue with that.

7 CHAIRMAN STEINBERG: But you do view yourself  
8 as having constraints?

9 MR. SHAW: Yes. Fiscal constraints.

10 CHAIRMAN STEINBERG: Fiscal constraints,  
11 understandably. What about political constraints?

12 MR. SHAW: No, I don't. I don't see --  
13 Certainly not from the administration.

14 CHAIRMAN STEINBERG: And what about -- I want  
15 to explore this issue, and I use it as an example more  
16 than anything else, a sentencing commission. It may or  
17 may not be the right answer that in the end is for the  
18 legislature, the governor, and/or the people to decide,  
19 but why isn't that sort of issue directly linked to your  
20 responsibility to help improve the conditions of this  
21 system?

22 MR. SHAW: I would agree that it's related, and  
23 having a sentencing commission is an interesting idea.

24 I've taught sentencing for years as a law  
25 professor and just recently did it, as a matter of fact.

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1 And I don't know that I personally or my office has  
2 looked at it enough for me to step forward and say it's  
3 the opinion of the Inspector General's Office that we  
4 should have one or not have one.

5 If we looked at a particular element of it,  
6 then I think I would be in a better posture to do that.  
7 But otherwise, again, it's just me stepping forward as a  
8 public servant saying I have an opinion.

9 SENATOR OROPEZA: Can I follow up on that for  
10 one question?

11 CHAIRMAN STEINBERG: Sure.

12 SENATOR OROPEZA: If, in the course of your  
13 adopting your 20 or so audits for the year, one of those  
14 audits had a relationship to sentencing in some way, I'm  
15 not exactly sure how, but if it did, then upon findings  
16 upon closure of the audit, would it then be appropriate,  
17 potentially, for you to opine on that?

18 MR. SHAW: Yes, it would.

19 SENATOR OROPEZA: That's the difference.

20 CHAIRMAN STEINBERG: Okay.

21 SENATOR OROPEZA: That's the difference.

22 CHAIRMAN STEINBERG: And that's very, very  
23 helpful.

24 Well, I mean, Preston. Three hundred and forty  
25 wards, and nine are in formal drug treatment programs.

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1 Do you have an opinion on that percentage?

2 MR. SHAW: That's a disaster. That's a  
3 complete underutilization of the 250,000 we're spending  
4 per ward, and there's no reason I'm aware of that that  
5 situation exists.

6 I've been to Preston many times on dual  
7 suicides and other reasons that I've had to go in there,  
8 and we deserve -- the state deserves better for our  
9 dollars than to have nine wards out of that entire  
10 institution in a substance-abuse program.

11 CHAIRMAN STEINBERG: What has to change for  
12 that number to increase?

13 MR. SHAW: Well, the department needs to look  
14 at their resources and decide what they're scoped for at  
15 that institution to decide why there aren't more wards  
16 in it. And this is something I just found out about  
17 today, so I -- we haven't looked at it, but it's  
18 something that the next time that we're there, we're  
19 going to.

20 CHAIRMAN STEINBERG: I think it's  
21 appropriate -- we're members of the public -- to ask the  
22 inspector general to look at specific issues.

23 We asked Secretary Cate to -- not to develop  
24 another plan, but to actually bring forward to us  
25 timetables and benchmarks regarding improvement in

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1 department programming at both the adult level and at  
2 the juvenile level. In other words, how many inmates  
3 and/or wards do you believe need drug treatment, mental  
4 health treatment, various forms of other rehabilitation?  
5 How many currently are receiving it and over what time  
6 can you tell us -- time frame can you tell us those  
7 numbers will increase?

8 Would it be appropriate to ask you to make, as  
9 part of your office's mission, guiding the department  
10 and working with the department to develop those  
11 benchmarks and timetables?

12 SENATOR DUTTON: I'll give you one better than  
13 that.

14 CHAIRMAN STEINBERG: Okay.

15 SENATOR DUTTON: If you want to do a joint  
16 letter between the two of us making an official request  
17 of the inspector general to go in and take a look at  
18 this and make specific recommendations back to us,  
19 because we can do that too.

20 CHAIRMAN STEINBERG: That's fine. Whatever the  
21 proper format. Bipartisanship.

22 SENATOR DUTTON: Well, it was a critical issue  
23 I had for myself regarding the 250,000 --

24 CHAIRMAN STEINBERG: That's right.

25 As you say, you're audit-responsive. I think

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1 we're interested in you really taking a look at some of  
2 the larger policy issues so that we can get a handle on  
3 how we're going to help overhaul this system, because if  
4 you take it in bits and pieces, one audit here and one  
5 audit there, one problem at a time, what do you have?  
6 MR. SHAW: Well, one is we fulfilled our  
7 statutory mandate, which we're budget-driven by the  
8 things that we've agreed to do, and so we're always  
9 doing that.  
10 But I would just like to point out any member  
11 of the legislature can request an audit or investigation  
12 of anything in the department, and we do them. I've  
13 done some of those already as the inspector general. So  
14 if that's something you would like to take a look at, a  
15 request is all we need, and we can do that.  
16 I am in the process of filling vacancies that  
17 we received in the -- we received in the last budget,  
18 and then we'll get more in the next. So I don't want to  
19 give the impression I have unlimited resources, but I  
20 will have a lot more by, I would say, the end of summer.  
21 We're actively recruiting for auditors and  
22 investigators.  
23 CHAIRMAN STEINBERG: Okay. One area of  
24 questioning here, if I might, and that's the  
25 relationship between the department and the receiver and.

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1 your opinion about the transfer of authority and power.  
2 The department has been pretty clear and  
3 Matt Cate has been pretty clear that the issue of  
4 management, recruitment and retention, of training, is a  
5 huge challenge, and he's trying to address it. And yet  
6 at the same time, the department indicates, in the court  
7 filings and otherwise, that they are ready to take back  
8 healthcare.  
9 So what is your view of how well CDCR develops  
10 and trains its leaders, and would you be confident at  
11 this point if the healthcare responsibility was  
12 transferred back entirely to the department?  
13 MR. SHAW: I think CDCR has had difficulties,  
14 as Mr. Cate has mentioned, in training, retaining, and  
15 placing qualified people into their warden positions,  
16 for example.  
17 There were a lot of CMO positions that were  
18 vacant prior to the receiver coming on board. We had  
19 contract doctors who were filling in as chief medical  
20 officers, or program managers, and so on. A lot of that  
21 is better now than it was before. Filling those  
22 vacancies up and down the state has done a lot to  
23 improve healthcare.  
24 And, as you know, we are, through our medical  
25 investigations unit -- or inspections unit, excuse me --

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1 are rating each one of the facilities that the receiver  
2 currently controls. So our team goes out, pulls a lot  
3 of files and gives a rating to each institution. We  
4 published five reports so far. We've got several more  
5 in the mix. Once I'm fully staffed up, we'll hit every  
6 institution every year. Right now it's taking a little  
7 bit longer, because I've taken it on without the  
8 positions to get it done.  
9 All that being said, there are a lot of moving  
10 parts with the receiver's operation at each of the  
11 institutions. Every time I'm out at one, I go meet with  
12 the CMO, I talk to the doctors, talk to the dentist.  
13 Everyone, I think, has -- Literally everyone has a  
14 positive outlook that things are getting much better.  
15 When I talk to the inmates, they think so as well.  
16 Whether or not tomorrow the department can take  
17 it back and effectively run it, I'm not so sure. I  
18 haven't seen a plan. I've spoken with the receiver  
19 numerous times and Mr. Cate about it needing to come  
20 back to the state at some point in time. I don't know  
21 that we're at that point right now.  
22 CHAIRMAN STEINBERG: Thank you.  
23 Senator Aanestad had a question, please.  
24 SENATOR AANESTAD: Which is great timing,  
25 because my questions do concern the receiver and your

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1 relationship.  
2 You're charged with making evaluations of these  
3 facilities, but not necessarily making -- acting on  
4 those findings. And yet one of the reasons the receiver  
5 is in the position he is today, controlling healthcare,  
6 is because it's been determined by the courts that the  
7 federal standard of care has not been met.  
8 However, when I see, for example, Centinela,  
9 you give them a 74.5 percent rating, in my mind that  
10 says that they're 75 point -- percent of the way towards  
11 achieving the federal standard of care.  
12 So somehow you have determined -- My question  
13 is: Have you determined what that federal standard of  
14 care is?  
15 MR. SHAW: We have not, and how we got to  
16 making those assessments was a collective practice or  
17 process with everyone, the receiver's office, the  
18 federal court, the plaintiffs' attorneys, the attorney  
19 general who is defending the state, and so on. We -- It  
20 goes from 18 to 20, depending on the type of facility --  
21 women's facility, reception center, and so on, areas,  
22 program areas, and we rate each one of those areas. And  
23 it may be that there's something that pulls a particular  
24 facility down to a certain level that the federal court  
25 may determine is not that important.

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1 Program literature, for example, that goes out  
2 on preventative care, the federal court may eventually  
3 decide that's not as important as we've weighted it at;  
4 but we're not in a position nor were we ever asked to  
5 make the evaluation have we reached that standard of  
6 care.  
7 I can tell you, having gone out and toured  
8 San Quentin with Judge Henderson, the standard of care  
9 there and other places has gone up dramatically with  
10 Judge Henderson and with the team that originally went  
11 out when he made his findings. We saw some things that  
12 would shock, certainly, the medical industry, I think.  
13 And since then, filling those positions with qualified  
14 doctors and nurses, the standard of care has come up  
15 tremendously. To date, it's been best at the women's  
16 facilities, where it's fairly good.  
17 SENATOR AANESTAD: I come from the medical  
18 industry. When I see that the receiver who is in charge  
19 is an attorney, and the inspector general who is in  
20 charge of making the evaluation is an attorney, and now  
21 you just quoted the state attorney general, who is an  
22 attorney, and -- you know, we have kind of an aversion  
23 to attorneys in our world.  
24 CHAIRMAN STEINBERG: Hey, wait a minute.  
25 SENATOR AANESTAD: Present company excepted.

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1 I guess when you're setting these standards --  
2 because I believe strongly the medical community needs  
3 to set the standard of care along with the patient --  
4 Who is your evaluating team? Who from the medical world  
5 is involved in the standard-setting portion of your  
6 evaluation?

7 MR. SHAW: Originally, when we set up the  
8 process, we had input from doctors and from nurses,  
9 nurse practitioners, and so on, that helped us establish  
10 the standards. We looked at the ACA standards for  
11 medical care; we looked at the federal system for their  
12 medical care and got input from their practitioners.

13 Our team that goes out -- We have two doctors,  
14 two nurses, and then an audit team that goes out, and we  
15 request records typically back about six months, and we  
16 cull through those records, and all of our findings from  
17 the audit side are checked by the doctors. And we have  
18 quality control over the doctors' doctors, if you will.

19 So we have several levels of professionals that  
20 are looking at our findings to make sure that what we've  
21 decided as a team are the -- the particular ratings are  
22 valid.

23 SENATOR AANESTAD: Are these people out of the  
24 128 members of your staff, or are they independent  
25 contractors who have more independence of being able to

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1 take advice?

2 MR. SHAW: The auditors are from my staff.  
3 We'll get authority to actually hire the new team on  
4 July 1st. That's 17 positions. We have one retired  
5 annuitant contract doctor who has been with the IG's  
6 Office for a while who does quality control and has also  
7 filled in as one of the team members. Early on, we did  
8 our pilot, and he assists now when he can.

9 I borrowed a doctor from the receiver's office  
10 who goes with us. We've had a couple of different  
11 doctors who really haven't been too deep into the  
12 receiver's world, and, of course, our doctor then checks  
13 that doctor's work, and so on. The nurses belong to us.  
14 And we have the authority in next year's budget to hire  
15 our own doctors and, again, additional nurses.

16 SENATOR AANESTAD: Nothing personally against  
17 the attorneys. I allowed my son to become one and even  
18 marry one.

19 MR. SHAW: Thank you.

20 CHAIRMAN STEINBERG: Other questions from  
21 Members? If not, let's ask for witnesses in support of  
22 Mr. Shaw as inspector general.

23 Sir.

24 MR. WARREN: Since it appears I'm the only  
25 witness and you suggested that brevity is the best

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1 testimony, on behalf of Taxpayers for Improving Public  
2 Safety, we support the nominee. We have three requests.

3 One, we did in our letter indicate that we had  
4 concern over the reports of the CROB that appeared to be  
5 looking through rose-colored glasses when they reported  
6 their progress concerning the Department of Corrections,  
7 and we would hope that would be addressed. That issue  
8 came to the fore yesterday in the Senate Public Safety  
9 Committee where a bill was introduced to provide  
10 educational oversight, which is the very thing that CROB  
11 is now addressing through the program office of the  
12 Department of Corrections. It appears we have two  
13 activities trying to do the same thing, which are  
14 therefore going to end up pulling away from each other  
15 instead of working cooperatively.

16 Second, we would hope that the CROB -- pardon  
17 me -- the Office of Inspector General would get into  
18 some of the areas that you have raised, although I've  
19 read the report concerning medical facility  
20 improvements. Being a person that does go inside and  
21 deals with the inmates who have to use the medical  
22 services, I would suggest that the ratings are not as  
23 correct as they might be, because I see inmates who do  
24 not have opportunities to get medication for  
25 hypertension, do not have opportunities to get

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1 medication for any number of diseases, such as diabetes,  
2 only because of the lack of access because of the  
3 tremendous demand due to overcrowding.  
4 Last, but assuredly not least, we would suggest  
5 that the Office of Inspector General should be expanded,  
6 because with the number of staff they have, they cannot  
7 meet the demands or requests made by the public, by  
8 inmates, and members of -- their family members.  
9 Thank you very much.  
0 CHAIRMAN STEINBERG: Thank you very much.  
1 Are there any witnesses in opposition?  
2 I just want to follow up on the CROB issue for  
3 a moment, because it piqued my interest, and it's very,  
4 very important.  
5 This is the California Rehabilitation Oversight  
6 Board, which you are the chair as the inspector general,  
7 correct?  
8 MR. SHAW: Correct.  
9 CHAIRMAN STEINBERG: Is the role of this board  
0 to collect data around education programs in the various  
1 institutions?  
2 MR. SHAW: That is part of it. Rehabilitative  
3 programs, yes, sir.  
4 CHAIRMAN STEINBERG: And then what do you do  
5 with the information?

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1 MR. SHAW: We are publishing reports on the  
2 progress that's been made by CDCR to meet the  
3 benchmarks.  
4 CHAIRMAN STEINBERG: Are you doing evaluative  
5 quality -- quality reviews to determine whether the  
6 particular education programs meet state education  
7 standards, for example?  
8 MR. SHAW: We have not done that yet, but we  
9 have the expertise on the board to do that. It's just  
10 to date, the department has been engaged in a great deal  
11 of planning and one pilot program. And once the  
12 implementation phase starts, that will be the time for  
13 the board and the different disciplines on the board to  
14 weigh in. Education and community colleges, to medical,  
15 to weigh in on how good those programs are.  
16 CHAIRMAN STEINBERG: Are you confident CROB  
17 will be able to fulfill that function once the  
18 department begins its implementation?  
19 MR. SHAW: I'm concerned that we don't have the  
20 staff to do quite as much as needs to be done. Once  
21 these programs are rolled out, I see all the work being  
22 done by the Office of the Inspector General, and we're  
23 not staffed for it.  
24 CHAIRMAN STEINBERG: Okay. This is good -- I  
25 mean, this isn't good, but this is good that you brought

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1 this up, which is that -- and I speak for all of us  
2 here. We're big on data, and we want, you know, the  
3 real evidence to guide the public investments that we  
4 make here. And so I'm going to ask our budget sub four,  
5 all right, to get on this issue, because if you're the  
6 outside evaluator, essentially, that is going to help  
7 determine the amount and quality of educational  
8 services, then we need to make sure you have the  
9 resources to be able to give us a quality product. And  
10 you're telling us that you don't have that, and I  
11 believe you.  
12 The other piece of that, and I've asked you to  
13 think about this, Mr. Shaw, is for you to have the  
14 capacity to also determine what is needed. In other  
15 words, this gets back to the old benchmark and goal  
16 question. It's one thing to collect the data; it's one  
17 thing to evaluate the quality. But, you know, a number  
18 without a context doesn't tell us much.  
19 How far along are we? Where do we need to go  
20 to in order to ensure that inmates who are going to be  
21 back out in the public, the vast majority of them, have  
22 the education and skills necessary to succeed in  
23 society?  
24 So we really want to work with you on making  
25 sure that this California Rehab Oversight Board is

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1 robust so that you can do more than what you're able to  
2 do now.  
3 MR. SHAW: Thank you. I appreciate your  
4 support.  
5 CHAIRMAN STEINBERG: Work with us on that.  
6 Okay?  
7 SENATOR OROPEZA: And hopefully -- I'll add on  
8 to that my little frustration. Hopefully, because of  
9 the role the IG has and the independence, maybe the  
10 money won't be taken away, if we decide that they should  
11 have it, to balance a budget or do some other something.  
12 CHAIRMAN STEINBERG: Well, we need to talk  
13 to -- yeah. Yes. Absolutely.  
14 So Nettie, you'll speak with Mr. DeSaulnier and  
15 the staff, and we really want to take this on, because,  
16 you know, if we can't fix this whole darn system, at  
17 least we can focus on the issue of programming, of  
18 education, of treatment, you know, as one way to focus  
19 on reducing recidivism.  
20 All right.  
21 SENATOR AANESTAD: So moved.  
22 CHAIRMAN STEINBERG: Your nomination has been  
23 moved by both Senator Oropeza and Senator Aanestad, and  
24 I'm proud to support it. You're obviously well-suited,  
25 well-qualified for this very, very important job. And

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1 the only thing we ask of you, once you're beyond  
2 confirmation, is to communicate with us, and don't be  
3 shy about telling us what it is you need. All right?  
4 MR. SHAW: Thank you, Mr. Chair and Members.  
5 CHAIRMAN STEINBERG: Please call the roll.  
6 MS. BROWN: Senator Cedillo.  
7 SENATOR CEDILLO: Aye.  
8 MS. BROWN: Cedillo aye.  
9 Dutton.  
10 SENATOR DUTTON: Aye.  
11 MS. BROWN: Dutton aye.  
12 Oropeza.  
13 SENATOR OROPEZA: Aye.  
14 MS. BROWN: Oropeza aye.  
15 Aanestad.  
16 SENATOR AANESTAD: Aye.  
17 MS. BROWN: Aanestad aye.  
18 Steinberg.  
19 CHAIRMAN STEINBERG: Aye.  
20 MS. BROWN: Steinberg aye.  
21 CHAIRMAN STEINBERG: Congratulations. Your  
22 nomination will move to the floor of the Senate and be  
23 taken up when?  
24 MS. SABELHAUS: Two weeks.  
25 CHAIRMAN STEINBERG: Two weeks. Two weeks, but

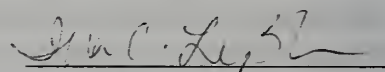
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1 don't lose any sleep. Okay?  
2 MR. SHAW: Thank you very much.  
3 CHAIRMAN STEINBERG: Thank you very much,  
4 Mr. Shaw. Appreciate it.  
5 (Thereupon, the Senate Rules Committee hearing  
6 adjourned at 4:55 p.m.)  
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2 I, INA C. LeBLANC, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify  
4 that I am a disinterested person herein; that the  
5 foregoing transcript of the Senate Rules Committee  
6 hearing was reported verbatim in shorthand by me,  
7 INA C. LeBLANC, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.  
10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing, nor in  
12 any way interested in the outcome of said hearing.  
13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 20<sup>th</sup> day of April, 2009.

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18 INA C. LeBLANC  
19 CSR No. 6713  
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1 APPENDIX  
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DEPARTMENT OF FISH AND GAME



<http://www.dfg.ca.gov>

1416 9th Street

Sacramento, CA 95814

916-653-7667

February 10, 2009

Honorable Darrell Steinberg, Chairman  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, California 95814

Attn: Nettie Sabelhaus, Appointments Director

Dear Senator Steinberg:

The honor of Governor Schwarzenegger's appointment to serve as director of the Department of Fish and Game brought me out of retirement and back to an organization where I was fortunate to have had a career that spanned more than 30 years. During that time I served as a wildlife biologist and held positions at various management levels working with dedicated people to conserve the state's fish and wildlife resources. I accepted the appointment to become director because I have an unwavering passion for the department's mission and a deep personal concern for the natural resource legacy that we will leave for future generations. I bring to this job a keen understanding and firsthand perspective of the department's functions, challenges, and potential. I am humbled by the trust and responsibility the position will afford me should the Senate choose to confirm me.

Thank you for the opportunity to share with you my goals as director as well as other information in response to the Committee's written questions. Also attached is my updated Form 700, Statement of Economic Interest.

- 1. What do you hope to accomplish during your tenure as Director of the Department of Fish and Game? What goals do you have for the department, and how will you accomplish them? How will you measure your success?***

My goal is to strengthen the department's ability to carry out its public trust obligation. This requires significant attention to climate change, habitat and natural community conservation planning and water management. It also requires finding stable funding, developing future leaders within the Department, and cultivating constructive relationships. During the past 10 months, I have taken several steps in this direction.

For example, I have established the Ecosystem Conservation Division within the department to focus our commitment to large-scale, multi species habitat and natural community conservation planning. The division also provides leadership in addressing climate change impacts and promoting renewable energy in a manner that conserves

Senate Rules Committee

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Appointments 79

fish and wildlife resources. It includes the department's Water Branch, which plays a key role in addressing water-related issues that affect fish and wildlife. The department is also involved in important conservation efforts throughout the state, such as those currently under way for the Delta and renewable energy projects. Additionally, I established a drought task force to identify ways to minimize the impacts of drought on fish and wildlife resources.

I am cultivating constructive relationships with a variety of constituencies. In order to excel in its mission now and into the future, the department must have partners in stakeholders and nongovernmental organizations, federal, state, and local governments, and within the Legislature. We can accomplish more for our diverse natural resources if we collaborate in finding solutions to the complex challenges we face. The Klamath Agreement in Principle for the largest dam removal project in the nation's history, the decommissioning of fish barriers and improved flow in Battle Creek, and the Lake Davis pike eradication project are recent examples of this.

I have also elevated the issue of workforce succession planning. The department needs to expand its workforce leadership capabilities and I have initiated actions to begin doing just that.

## **2. *What do you believe are the most serious issues facing your department?***

The department's responsibilities have significantly increased since it was created more than 100 years ago. Although our mission remains the same, we are continuously working to effectively adapt to our ever expanding role, the state's growing population, and the diversity of our constituencies.

One of the most serious issues facing California's fish and wildlife is climate change. Scientists suggest changes in precipitation patterns and more frequent droughts, like the one we currently face, will change the landscape and place new pressures on the state's fish and wildlife populations. In addition, impacts of climate change will likely create conflicts among fish, wildlife, agricultural and urban water users. Effectively adapting to these impacts will require close coordination and cooperation between a diverse group of agencies and stakeholders.

Another serious issue is the department's lack of stable funding. The department is blessed to have public-private partnerships that assist us in our efforts. However, we need stable funding to support our mission and critical core functions.

Those functions, including monitoring and assessment of fish, wildlife and their habitats, cannot continue to be subject to fluctuating financial cycles and fiscal uncertainty. In light of increasing human pressures and climate change, we must have reliable information about those resources. While this subject matter might seem mundane, it is fundamental to the department's success as a scientific organization charged with public trust responsibilities.

Stable funding is also essential for the department's Law Enforcement Division. With this in mind, we are educating district attorneys and judges on pertinent laws in an effort to increase fines and enhance penalties for poaching and other violations. With ever increasing mandates and an expanding human population, this core department function must be adequately equipped to keep pace.

Succession planning must be a priority for the department to help ensure continuity and stability in carrying out its public trust responsibilities in the years to come. The value and dedication of the department's employees cannot be overstated. However, approximately 19 percent of the department's workforce is 55 years of age and older. Considering the statewide average retirement age of 60, these employees will likely retire in the next three to five years. With these retirements go vast amounts of institutional memory, experience, and connection to communities and stakeholders. This seriously impacts the department's ability to carry out its public trust responsibilities. Therefore, recruitment and retention of quality individuals, as well as training, mentoring and development of the department's current workforce, is essential.

**3.     *How do you stay informed of the fiscal resources available to your department? How do you prioritize activities if not all can be undertaken? What are your priorities?***

I take responsibility for the department and its fiscal resources. The Chief Deputy Director and Deputy Director for Administration assist me in that effort by keeping me informed on a daily basis along with the Department of Finance and others in the Administration.

Under the current budget and economic circumstances, prioritizing the department's activities is a particularly sobering task. The department has a variety of responsibilities and mandates (both funded and unfunded) and is supported by a variety of fiscal resources, including dedicated and non-dedicated funds, fees, grants, and the state's General Fund.

When prioritizing activities, my goal is to preserve the department's critical core functions. We must get the "biggest bang for our buck" in terms of long-term benefits for fish and wildlife. In prioritizing, I consider statutory constraints (e.g., dedicated funding, fees), core functions, public health and safety, maintaining investments (e.g., wildlife areas, ecological reserves) and revenue generation.



4. ***How do you grade your own department on how it has carried out its public trust responsibilities? What areas do you believe need improvement so the department can carry out its mission to “maintain native fish, wildlife, plant species and natural communities for their intrinsic and ecological value and their benefits to people? This includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities.”***

Given its available resources and the many demands placed upon it, I think that the department does a very good job in carrying out its mission. We operate on many fronts to achieve our mission with lands, water, fisheries, wildlife, conservation planning, enforcement, and spill prevention and response programs. These operations have contributed significantly to the conservation, protection, and management of the state's native fish, wildlife, plants, and their habitats.

However, there is always room for us to improve and more must be done. With greater emphasis on large-scale habitat and natural community conservation planning, climate change adaptation, and water management, and by engaging with our various constituencies in constructive problem solving, the Department can achieve more for the state's natural resources with the limited resources it has. This is essential given the demands of a growing population combined with the challenges of climate change impacts and unpredictable budget cycles.

5. ***What percentage of your budget is supported by General Fund monies and what percentage comes from fees and permit applications? Given the reductions in General Fund support for the department, how do you prioritize the many duties you have? Do you have any proposals for increasing revenue to the department?***

The General Fund portion of budget is decreasing while the Fish and Game Preservation Fund (FGPF) portion is increasing. From this fiscal year to next, General Fund support will be reduced from 17.9 percent to 16.5 percent of the budget, while license fees and permits have increased from 22.5 percent to 25.8 percent. Thus far, when the department's budget has been cut, we have been able to redirect critical functions, such as enforcement, from the General Fund to FGPF.

Ensuring more stable funding for the department is essential to the department's ability to carry out its public trust responsibilities. In the face of the state's fiscal crisis I am welcoming discussion with all those who have a stake in the solution.

**6. *Please describe the department's activity in trying to better understand the open water fish decline.***

The department is actively engaged in numerous activities to address the decline of open water (pelagic) fishes. Our long-term monitoring surveys since the late 1950s were instrumental in detecting the marked declines of four pelagic fishes in the upper San Francisco Estuary. The department continues to conduct annual monitoring surveys. Since 1972, the department has been a leader and major participant of the Interagency Ecological Program (IEP), a collaboration of three state and six federal agency partners working together in the San Francisco Estuary and Delta to coordinate monitoring and research. The IEP formed a Pelagic Organism Decline work team to examine the potential causes for the pelagic fish decline. The department is working tirelessly to examine the interaction of multiple stressors in the Bay Delta and the decline of pelagic fish populations.

**7. *When do you expect the department will have enough information to begin adopting management strategies that will first stabilize and then recover fishery populations? Is recovery of these species an identified objective of the department, and if so, in which documents is this objective identified?***

The department is already using several management strategies based on existing information to recover fishery populations through its implementation of the CALFED Ecosystem Restoration Program (ERP). The ERP has developed a conservation strategy for the Bay Delta and Suisun Marsh, which includes recovery targets from existing recovery plans that are being updated for Delta native fishes and developed for Central Valley salmonids. The conservation strategy includes habitat restoration to restore ecological processes and enhance productivity within the Delta. It also addresses other stressors and recognizes the need to change where and how water is exported from the Delta. The department supports the fish recovery goals of the ERP.

The department is also actively participating in the Bay Delta Conservation Plan (BDCP). This effort is a multi-agency and stakeholder planning and environmental permitting process, under the federal and state Endangered Species Acts and the state's Natural Community Conservation Planning Act, to restore habitat for fisheries in the Delta and improve water delivery reliability in California. The Delta Regional Ecosystem Restoration Implementation Plan, consisting of conceptual models for many aquatic species, habitats, and stressors in the Delta, is presently being used to test potential BDCP conservation actions. These models incorporate the current state of knowledge and understanding of fish species and ecological processes.

**8. *Has your department been working with the state and regional water boards to address the issue of increased ammonium in the Sacramento-San Joaquin Delta? What are the possible solutions to address this issue?***

The department, through its participation in the Interagency Ecological Program, has been working with the State Water Resources Control Board and the Central Valley



Regional Water Quality Control Board to investigate if there is a link between the Pelagic Organism Decline (POD) and ammonia. The department is participating in discussions next month with the CALFED Science Program and the Central Valley Regional Water Quality Control Board to determine future studies needed to better assess the role of ammonia in the Delta. Finally, the department is joining other agencies, including the State and Regional Water Quality Control Boards, in the "Ammonia Summit" scheduled for June 2009.

The State Water Resources Control Board, along with the department, the Natural Resources Agency, California Bay-Delta Authority, and the California Department of Water Resources, is an active state participant on the BDCP Steering Committee. Ammonia is one of a number of possible stressors that is being looked at within the context of the BDCP process.

**9. *To what degree are headquarters and regional offices experiencing retirements from top-management and manager-level employees? If such retirements are occurring, do you have succession plans?***

There are 98 employees in the department at supervisory and top management levels who are over the age of 55. That is more than 30 percent of all supervisors and managers. Since 2006, the department has experienced 32 retirements from first line to senior management levels. This is approximately 16, or five percent of supervisors and managers retiring per year.

As I've mentioned, the department's succession planning is one of my top priorities. This includes leadership development and supervisory training, mentoring of up and coming leaders, and filling positions as early as possible to allow for adequate transition.

Under my direction, the department's succession planning activities are already underway. The department's Human Resources Branch is actively working with managers to develop the most effective methods to ensure the department's future management team and workforce. I have also begun to expand this effort to include internal and interagency cross-training opportunities where employees take temporary assignments to gain different perspectives and learn about other functions within and outside the department. During my tenure as director, employees will take advantage of leadership training, temporary assignments and exchange opportunities that will afford them a firsthand understanding of different points of view, roles, responsibilities, and challenges.

**10. *Are headquarters and regional offices experiencing any problems with employee retention or pay equity? Please describe how the department plans to reconcile these issues.***



Generally, the department has not lost a significant number of employees to other state agencies or to other public or private sector jobs. However, pay equity continues to be a concern with the Fish and Game Warden classification as compared to other state peace officers including those in Bargaining Unit 7, Protective Services and Public Safety. Fish and Game Warden salaries significantly lag behind other law enforcement classifications that have the same responsibilities. Warden cadet recruitment would improve and may bring in a more diverse group of individuals if the salaries were comparable to other peace officers in the state.

Additionally, pay disparities for employees in the Biologist classification relative to employees in Environmental Scientist classification is also a concern. Currently, pay for Biologists lags behind pay for Environmental Scientists, although the responsibilities for these classifications are very similar. In addition, much like the Warden classification, pay for professional scientists lags well behind pay for state jobs and duties for analogous scientific and technical classifications.

**11. *What effect has the four-year pay increase had on retention and hiring of new wardens? How many wardens are currently available in the field, and what is the approximate size of the area each is expected to cover? Are you satisfied with the current warden staffing levels? What should the warden staffing level be to adequately protect the state's natural resources?***

The four-year pay increase has had a positive impact on retention of wardens, most notably in the ranks of those eligible to retire. Though the number of wardens eligible to retire remains very high, (more than 60 wardens in the current year and an additional 36 wardens in the next three year period), the rate of retirement has slowed with the pay incentive. However, the retention benefit with the salary increase will diminish at the end of this calendar year for those 50 years of age and older.

Hiring of new wardens is at a slight increase due to a combination of factors. The department has implemented an aggressive recruiting program. In addition, there was the four-year pay increase. Although there remains a significant salary disparity between wardens and other peace officers throughout the state, the salary increase was helpful in attracting new recruits. Finally, the department's new Peace Office Standards and Training Fish and Game Academy at Butte College offers an associate's degree in Wildlife Law Enforcement to self-sponsored cadets, which is an added incentive.

Wardens make, in many cases, in excess of 50 percent less in salary and benefits than other state peace officers. With the 10 percent reduction in pay due to the recent furlough, the Law Enforcement Division expects retention difficulties to increase. It will force some wardens to migrate to more traditional and higher paying law enforcement agencies.

Warden coverage varies greatly throughout the state. Some warden districts cover an entire county, while others have several wardens assigned to a small geographic area

where there is a significant population requiring a tremendous workload and additional staffing. The 370 allocated warden positions cover 159,000 square miles, including 30,000 miles of rivers and streams, 4,800 lakes, an 1,100 mile coastline with jurisdiction that extends 200 miles from shore, 66,000 fish businesses, one million registered vessels, habitat protection responsibilities to support all wildlife species, and all off-highway pollution events impacting wildlife and waterways.

California ranks lowest in the nation for the number of wardens per capita and among the lowest for the number of wardens per square mile of land. As examples, the State of Florida has a similar marine component as California with Marine Protected Areas and approximately the same number of registered boaters, but much less diversity of ecosystems and land mass. Florida has only 15 million residents as opposed to California's 38 million, but they have 753 game wardens. Texas, which has approximately 80-90% of its land held privately, as opposed to California's similar percentage in public land holdings, employs 540 wardens. If the department were to have coverage equal to states of similar size and resources, we estimate that well over 1,000 wardens would be needed to protect the state's wildlife resources.

**12. *What is the extent of harmful algal blooms in inland and marine waters? How serious are the negative effects that fisheries and marine mammals experience?***

Harmful and nuisance blue-green algal blooms have been known to occur in many California inland waters during at least the past 50 years. Blue-green algal blooms generally have the potential to cause indirect negative effects such as warmer temperatures, higher turbidity, increased nutrient loads and organic matter, and lower oxygen levels within reservoirs and the rivers they feed. These indirect effects can adversely affect fish by impeding growth and decreasing survival.

Harmful algal blooms negatively affect California's marine environment by producing certain algae of domoic acid or other toxins. These toxins subsequently build up in shellfish and smaller fish that utilize the algae as a food source. These toxins then bioaccumulate and can have lethal toxic effects on marine birds, mammals, and humans. Other negative effects include oxygen depletion that can cause fish die-offs.

**13. *How does the department plan to address this issue of negative impacts to inland and marine species?***

With respect to addressing the inland waters issue, the department consults regularly with state and federal agencies responsible for implementation of water quality regulations. We actively engage the State Regional Water Quality Control Boards to address sources of nutrients or contaminants in impaired waters such as the Klamath River.

In the marine environment, the department often responds to fish kill events to determine whether the fish kill was the result of a spill or a harmful algal bloom.



Additionally, the department assists the California Department of Public Health in collecting water samples to help track biotoxin impacts.

**14. *Do you believe that the regulations adopted by the Board of Forestry and Fire Protection are adequate to restore the Coho populations? If not, what additional measures should be taken?***

The department and the Board of Forestry and Fire Protection (Board) recognize that restoring coho salmon populations will require additional measures. Currently the Board is considering improvements to the Threatened and Impaired Watershed Rules. The department is actively engaged in providing support to that process. We have reason to be optimistic that these results will lead to better protection for coho salmon, as well as an improved rate of recovery for coho salmon habitat. Improvements may include measures to improve water temperature, large woody debris recruitment and reduction of sediment delivery to streams from roads.

Additionally, earlier this month, the Board unanimously approved a revised Joint Policy Statement on Pacific Salmon and Anadromous Trout, which establishes comprehensive goals to recover anadromous fishes. The department was active in developing the policy and supports it. I am requesting that the Fish and Game Commission consider it for adoption at its March meeting.

**15. *What are the current explanations for the decline in the state's salmon and trout populations? What can the department and other state agencies do to restore the health of the state's native fishes?***

Salmonid populations have declined within California due to a combination of factors that have adversely impacted the quality and quantity of their habitat. These factors include alteration of natural stream flow patterns, floodplains and channels, physical impediments to fish passage, sedimentation, urban and rural waste discharges, loss of genetic diversity, introduction of non-native species and poor ocean conditions.

While ocean conditions will always play a significant role in influencing salmon population conditions, fresh water habitat protection and restoration is a key to restoring salmonid populations statewide. The department shares this goal with landowners, conservation, sport and commercial fishing interests, tribes, and federal, state, and local agencies. The department is working with these interested stakeholders now to fund and implement effective habitat restoration projects, conduct monitoring, and address impacts of habitat conversion, water management, and other stressors. The department is also implementing other recovery actions and developing conservation plans.

In conclusion, I am humbled by opportunity to serve as Director of the Department of Fish and Game. I look forward to further addressing these issues and any other concerns you may have during my confirmation hearing later this month.



Sincerely,

A handwritten signature in black ink, appearing to read "Donald Koch". The signature is fluid and cursive, with the first name "Donald" written in a large, sweeping loop and the last name "Koch" in a more compact, stylized script.

Donald B. Koch

Attachment

cc: Hon. Sam Aanestad  
Hon. Gilbert Cedillo  
Hon. Robert Dutton  
Hon. Jenny Oropeza



March 24, 2009

The Honorable Darrell Steinberg  
Chairman, Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814

Dear Mr. Chairman:

In preparation for the Senate Rules Committee's confirmation hearing on my appointment as the California Inspector General, the Committee has requested that I answer 25 questions related to the goals I have set for the Office of the Inspector General (OIG), as well as my progress in attaining those goals.

The goals we have set for the OIG are designed to improve the effectiveness and efficiency of our correctional departments and to enhance the public's confidence in the correction system. I appreciate this opportunity to address the Senate Rules Committee to delineate our progress in meeting these objectives and look forward to discussing these matters further during the upcoming confirmation hearing on Wednesday, April 1, 2009. Here are the Committee's questions, along with my responses:

### **Background and Statement of Goals**

*The Office of the Inspector General (OIG) provides oversight for the state's correctional system through audits, investigations, and special reviews of correctional agencies, institutions, and programs. OIG is an independent agency that reports directly to the Governor. The modern concept of inspector general has its roots in 1959 with the appointment of a federal inspector general by the Secretary of State. Since then it has spread throughout the federal government and to agencies in some states.*

*To help ensure independence, the California Inspector General is appointed for a six-year term and can be removed from office only for good cause. OIG has a current general fund budget of \$23.1 million, with 128 positions.*

**Q1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as Inspector General? How will you prioritize your goals? How will you measure your success?**

**A1.** As Inspector General, my four goals for the office, as reflected in our strategic plan, are to assist the California Department of Corrections and Rehabilitation (CDCR) in becoming a model correctional agency; achieve excellence in communication; implement effective and efficient work processes; and maximize the use of the OIG's resources to meet organizational goals.

**Senate Rules Committee**

Arnold Schwarzenegger, Governor

MAR 24 2009

As the oversight agency for California's correctional system, the OIG has worked hard to earn a reputation for integrity and professionalism while bringing transparency and accountability to the state's correctional system. Over the past four years, those efforts have taken place in an atmosphere of constant change. California's inmate population reached crisis levels, the federal court appointed a receiver to manage the medical system, and the Legislature passed sweeping reforms designed to reduce recidivism.

In this same period, CDCR reinvented its organizational structure and changed leaders no less than four times. During these years, the OIG also restructured and expanded its mission to assist CDCR in becoming a more effective state agency by providing independent and transparent oversight to the correctional system. We have accomplished this primarily through aggressive monitoring, audits, and investigations. Going forward, we have developed a strategic plan that reflects these external and internal changes by laying out priorities for the organization's goals and objectives with an uncompromising focus on assisting CDCR in fulfilling its operational mandates and advancing our organizational effectiveness. Our strategic planning process aligns objectives into actionable and measurable activities to ensure the plan's success. We evaluate our progress regularly making midcourse adjustments to reflect the current environment and changing priorities.

With regard to assisting CDCR in becoming a model correctional agency, we pursue this goal through rigorously monitoring and auditing CDCR's performance as an organization, as well as investigating the conduct of CDCR management and staff. Specifically, through our monitoring of the department's performance with regard to misconduct investigations, disciplinary decisions, and use-of-force reviews, it has significantly improved its compliance with policies and procedures and the requirements of the *Madrid* lawsuit.

Our audits have identified issues such as the mistreatment of wards and the violation of inmate rights. As a result, we have pushed CDCR to allow juveniles programming opportunities and time out of their cells. We have also encouraged the department to take measures to afford inmates in administrative segregations their due process rights. In addition, through audits and investigations we have identified issues such as timesheet fraud by doctors, overpayments to contractors, and failure to bill for monies owed to the department. Our efforts in these areas will result in millions of dollars of recoveries or the prevention of future waste of state funds. Our audits have also identified weaknesses in the department's training that jeopardizes staff, inmate, and public safety. By following our recommendations, the department will also reduce its potential civil liability.

Through our revised intake process and our semi-annual prison inspection process, we are working proactively to identify key and emerging issues affecting CDCR's mission. These efforts have identified issues such as the major threat posed by cell phones being smuggled into institutions, and violations of policy regarding the recording, tracking, and processing of misconduct allegations received by institutions.

As an office, we have worked to strengthen partnerships with other oversight groups and stakeholders to identify issues and trends that will enhance our ability to foster change within CDCR. In the last year, we have worked collaboratively with the parties to the *Plata* and the *Coleman* litigation and other stakeholders to develop an inspection program that provides insight



and transparency for the provision of medical care within the state's prisons. We also recently met with representatives from Just Detention regarding the Prison Rape Elimination Act to coordinate our efforts in this area.

I believe that for the OIG to be an effective agent of change, effective communication is a core goal as we provide transparency into the correctional system. As an organization we must seek an open and on-going dialogue with the department, the Legislature, stakeholders, and the public to ensure that we identify timely the most critical issues confronting the department. Doing so will allow us to most effectively target our limited resources to achieve the greatest impact in fostering improvement in CDCR.

In pursuit of this goal, I am seeking new and creative ways to obtain information, communicate issues, and affect change. Our semi-annual inspection process is designed to get OIG staff on the ground in every institution on a regular basis to provide staff and inmates with an opportunity to communicate with us in a non-threatening and informal way. I have also encouraged my staff to participate in forums with stakeholders, interested parties, and industry groups. Examples include our dialogue with stakeholders on medical and mental health issues, Just Detention on prison rape, the California District Attorney's Association on legal issues, and the National Association of Inspectors General regarding best audit and investigative practices.

I believe that providing information and bringing transparency to corrections in California is critical to our success. As a result, except for information that we are legally precluded from disclosing, we post all our work on the OIG website. Information available online includes, audits, medical inspections, an expanded quarterly report that provides summary information about complaints, facility inspections, audits, medical inspections, and investigations, an annual report; and semi-annual reports regarding our monitoring of the department's employee investigative and disciplinary process. In addition, an extensive network of public officials and stakeholders are electronically notified when our reports are released.

Another vital goal is to implement effective and efficient work processes. Given limited state resources, it is important for all departments to be able to achieve their mission in the most economical way possible. For the OIG, one of the factors that contributes to this goal is ensuring that collectively we possess the distinctive competencies that enable innovation, efficiency, and responsiveness to stakeholder issues and that can be leveraged to generate change within CDCR. Our rigorous recruiting and hiring process is one factor that we use to help meet this goal. We have a multidisciplinary staff that provides a broad array of core competencies which can be called upon to meet the requirements of unique assignments.

A key factor in the OIG being an effective organization and fostering change in CDCR is having highly skilled staff and an organizational reputation for integrity, professionalism and quality work. Our core values of fairness, integrity, respect, service, and transparency speak directly to this. By instilling and exhibiting these core values, our work is valued more highly and is more likely to bring about positive change in CDCR.

With over 60,000 employees, approximately 170,000 inmates, over 120,000 parolees, and a budget of approximately \$10 billion, CDCR is one of the largest state agencies. By contrast the

OIG currently has approximately 128 authorized positions. Therefore, the task of providing comprehensive oversight for the department is a herculean task. Accordingly, it is important that the OIG maximize the use of its resources to meet its primary organizational goal of assisting CDCR to become a model correctional agency. To do this, we have attempted to operate a lean organization that focuses its efforts on its oversight role and prioritizes work based on legal requirements, high priority items, and broad statewide issues.

From an operational perspective, being a small organization means that staff need multiple competencies, so we are focused on employee development and cross-training. From a workload perspective, we attempt to focus on broad, critical, and/or emerging issues. For example, given the \$1.4 billion annual operating cost for prison medical care and the specter of billions of dollars in prison construction costs, we took on the task of providing independent evaluation of prison medical care delivery at the request of the federal court and receiver's office. This undertaking has presented short-term operational challenges with regard to managing workload assignments. However, the information our inspections provide is intended to focus the efforts of the federal receiver and CDCR on specific items and areas that will result in appropriate corrective action and ultimately an end to the receivership. Therefore, the broad potential benefits of these inspections compels us to take on this challenge to affect positive change in prison medical care to protect inmate rights and minimize cost to the state.

With regard to measuring success, my ultimate goal is driving institutional change and improvement at CDCR. Therefore, factors such as the department achieving a higher level of compliance in monitored disciplinary cases, implementing a greater percentage of audit recommendations, achieving higher scores on medical inspections, and taking appropriate action against staff and managers involved in misconduct would be indicative of success in affecting change. With regard to internal measures of success, indicators might include the amount of fraud, waste, and abuse identified; the number of audit recommendations made to CDCR; and the number of medical inspections, facility inspections, or investigations performed. However, one of the most powerful benefits of oversight is deterrence, and the deterrent effect of an oversight function is not easily subject to quantification. Therefore, the true value of our oversight is the missteps that do not occur and the positive changes that are made because of our existence and presence in performing monitoring, audits, investigations, and inspections.

**Q2. When Matthew Cate, the previous Inspector General, came before Rules Committee in August 2004, he agreed that California's prisons were badly in need of repair. He especially focused on the state's recidivism rate as the worst in the nation and a failure to properly take care of juvenile offenders. Do you believe the OIG has made any impact on the concerns raised by Mr. Cate in 2004?**

**A2.** In my opinion, the OIG has been instrumental in affecting lasting and substantial changes to CDCR in a variety of areas. Regardless of the particular area of examination, providing transparency and accountability has been the key to encouraging positive change. Effective January 1, 2005, an amendment to the OIG statute provided increased transparency of CDCR by requiring public disclosure of the OIG's completed audits and a summary of the office's completed investigations. For the first time, the OIG could now inform the public, Legislature, courts and other stakeholders of what was actually occurring behind prison walls and in the parole



regions. Shining this light into CDCR's insular culture had the effect of promoting change in a change resistant system that had traditionally operated with few restraints and little fear of public disclosure of misconduct or malfeasance.

With regard to the operation of the Division of Juvenile Justice (DJJ) and the care of juvenile offenders, we have provided significant oversight. As identified in our 2008 Accountability Audit, the OIG has performed audits at many facilities and reviewed major programs such as the Intensive Treatment Program and 23 and 1 Special Management Program in the last nine years. In the course of those audits and reviews, the OIG has made 319 recommendations for improvement in the treatment of wards and in the operation of the department. Out of these recommendations, 274, or 86% of the OIG recommendations have been implemented to date. Nevertheless, the OIG continues to provide oversight for DJJ and is particularly focused on issues such as safe housing, programming, and ensuring wards receive an appropriate minimum time out of their cell. For example, in the 2009 Accountability Audit, we pursued an additional 20 recommendations for Heman G. Stark Youth Correctional Facility related to the following:

- maintaining adequate living conditions;
- providing mandated services such as education and counseling;
- operating of a highly restrictive program that does not afford wards the same minimum protections and guarantees for services and exercise, as those provided to wards in the department's special management program;
- addressing sexual misconduct by wards;
- performing mental health screening tests; and
- replacing inadequate video surveillance equipment that compromised ward and staff safety.

The OIG also continues to press the department with regard to ensuring that system-wide, wards in restricted programs are provided a minimum of three hours of *out-of-room* services each day, consistent with standards established by former department Secretary James Tilton.

With the significant decline in the juvenile offender population, the closing of youth correctional facilities, and the consolidation of the California Youth Authority (CYA) into CDCR, DJJ has become a smaller part of our workload. The number of complaints from DJJ wards and their families has dropped significantly, as have suicides/attempts as well as disciplinary issues with DJJ staff. Nevertheless, the OIG remains committed to providing strong oversight of DJJ and its treatment of youthful offenders. Clearly, work still needs to be done by DJJ in many areas, and we will continue to press the department to correct its deficiencies through audits, investigations, and reviews, as well as through our ongoing, semi-annual inspection process.

The OIG's semi-annual inspection process, coupled with our quadrennial audit program, will continue to identify the more serious repair issues facing California prisons. However, given the budgetary limitations of CDCR, whether or not some or all of the reported deficiencies are corrected timely is based largely on the priorities of CDCR. The OIG will continue to ensure that we identify those areas that have a direct impact on the security of the facility and the safety of staff and inmates. Furthermore, it is paramount that we incorporate these noted deficiencies in our inspection and audit programs to determine what steps CDCR has taken to correct the problem areas and to ensure the OIG is providing the proper oversight.



Recent examples of OIG impact on CDCR operations:

Unsafe Inmate Housing Unit at the California Institution for Men

During a facility inspection in October 2007, the OIG identified unsafe living conditions at the California Institution for Men (CIM). CIM South Dorm's upper level was condemned for its visibly unsafe and sagging floor. However, inmates were still living on the first floor despite the dangerous level just above. An OIG investigation revealed that the crumbling infrastructure of the dorm was an immediate risk to staff and inmate safety, and that the building should no longer be used to house inmates. We recommended to CDCR that the South Dorm be closed to inmate housing. Subsequent to this recommendation, the entire South Dorm was condemned and inmates are no longer housed there.

In the area of facilities repair, although the OIG is increasingly concerned about the crumbling infrastructure at many CDCR facilities, and has identified them in various reports, CDCR points to a lack of funding for maintenance and repair as the cause. Due both to the advancing age of many facilities as well as the overuse of infrastructure due to overpopulation that well exceeds design capacity, many facilities are at their physical limits. On a positive note, CDCR has begun an initiative to identify and forecast its true facility maintenance costs and plans to publically report on its actual needs for the first time.

Suicide Attempts at Ventura Youth Correctional Facility

In May 2008 the OIG identified a pattern of suicide attempts occurring at the Ventura Youth Correctional Facility (VYCF). An OIG investigation revealed several deficiencies that could diminish the superintendent's ability to hold employees accountable for failing to perform required duties. The deficiencies identified by us related to: ward accountability procedures, position statement consistency and completeness, and the position statement review and acknowledgement process.

We recommended that the superintendent implement six corrective actions to strengthen living unit operations and improve his ability to hold employees accountable for failing to perform required duties.

In the area of recidivism, the department still lags far behind several more successful state correctional programs for a variety of reasons, not the least of which being significant inmate overpopulation. Under the California Rehabilitation Oversight Board's (C-ROB) guidance, CDCR is making strides in planning to increase programming opportunities and options, identifying more effective assessments of individual inmates and parolee needs, and working more closely with local agencies to provide continued programming when on parole.

- Q3. Please describe your relationship with Mr. Cate, now Corrections Secretary, whose department you are charged with scrutinizing and for whom you previously worked? What lessons did you learn as the Deputy Inspector General for CDCR that you now are applying to your duties as Inspector General?**

A3. My relationship with Secretary Matt Cate can best be described as professional, cooperative, and positive. Mr. Cate hired me as the OIG Chief Assistant Inspector General in 2004 to build the Bureau of Independent Review (BIR) from scratch. Prior to that time, although we had been prosecutors in the same office for a few years in the 1990s, we did not really know each other. In the ensuing years at the OIG, Mr. Cate and I enjoyed a close working relationship based on mutual trust and respect, developed over four years of working closely on OIG projects and initiatives. After Mr. Cate became the CDCR Secretary, our relationship has necessarily become more distant as our roles and duties have changed significantly. As the Inspector General (IG), I meet with Mr. Cate on a regular basis each month to discuss issues of mutual interest face-to-face and on an as needed basis to address issues that concern our respective departments. In my estimation, Mr. Cate and I have a closer working relationship than he did as IG with his predecessor, former Secretary James Tilton, but we meet and discuss issues on a similar frequency. The major benefit to the State that I see in Mr. Cate and I having worked together closely in the recent past is that we trust each other and both believe that the OIG has a vital and valuable role to play in the success of the CDCR.

One of the most valuable lessons that I learned during the four years that I was the Chief Assistant Inspector General is the value of a fully involved and committed executive staff. As the OIG began to rebuild in 2004, the OIG executive staff developed a culture and process whereby we met frequently, discussed openly and honestly virtually all operational and administrative initiatives, and participated in the decision making process. While the IG ultimately makes the executive-level decisions, having input from all executive staff members greatly assists me in making more informed and better reasoned decisions. Establishing a culture wherein every executive staff member felt empowered to comment on pending OIG decisions, even outside of their particular area of responsibility, was not easy to achieve but has been key to our success over the last five years. I have continued to promote this open culture of participation amongst my executive staff when I became the IG.

The other principle lesson I have learned is that while change typically comes slowly to CDCR policies and culture, positive and meaningful reform is possible when coupled with rigorous oversight, verification, and transparency. For example, the numerous positive changes to the CDCR investigative and disciplinary system over the last five years have been miraculous. Despite there being many naysayers within and outside of the department as we began the *Madrid* reforms, the department has achieved vast improvements in the timeliness, fairness, consistency and thoroughness of the process. While there were certainly obstacles and difficulties along the way, the BIR under my leadership was undeterred and continued to push for the changes that would allow the state to finally close out this civil rights case, ongoing since 1995. At the time of this writing, the state is awaiting the final federal court order that will terminate this case, the state finally having met all the reforms mandated by the court. It is this type of tenacity that is needed to achieve the reform that is critical to all OIG operations where lasting change is needed at CDCR.

**Q4. Please describe how you select your executive staff and how you ensure the independence of the office. Please explain the type of training your staff receives.**



- A4. When I am seeking executive staff, beyond the basic tenants of competence, intelligence, and honesty, I look first for someone who I believe will be a good fit within the OIG organizational culture and second at their particular qualifications to determine which seat to put them in. While public sector hiring is often based largely upon the job an applicant currently has or has previously had, I have sought out candidates who share our passion and commitment to assist CDCR in becoming a model correctional agency and who are willing to work cooperatively with the other members of the executive staff. The OIG is fortunate to have an organization of competent and intelligent professionals who work well independently. I therefore also seek executive staff members who are willing to listen to their subordinate staff and supervise them in a manner that does not interfere with their creativity and yet holds them accountable.

Over the past year, we have developed a comprehensive focus with respect to the development and training of the OIG staff. The mission of our training program is to provide internal and external opportunities to improve employee job performance, enhance staff development, ensure program effectiveness and maintain compliance with state law. This year the program centered on developing staff core competencies that seek to improve our organizational success. Essential to this approach is developing personal, interpersonal, organizational and technical competencies, improving critical thinking and continuous customer focus.

More specifically, in addition to the required supervisory training that state managers and supervisors receive, we have been sending our executive staff to the National Association of Inspector's Generals (AIG) Certified Inspector General Course. I attended this training course last summer in Washington, DC along with the OIG Bureau Chief of Audits and Investigations (BAI). The AIG has just begun presenting training courses for Certified IG Auditors and Certified IG Investigators, and we plan to send some of our managers and supervisors to that training as well in the future. Other training has been provided on a topical or as needed basis and will be continued in the future to ensure OIG staff has the skill set necessary for success.

- Q5. Do you have all the tools you need to monitor the state's 33 prisons? Are there changes you would make in the law that you believe would benefit the way your office performs its job?**

- A5. With regard to needed tools, the OIG has recently begun performing inspections to evaluate the delivery and quality of medical care provided to inmates consistent with the requirements of the *Plata v. Schwarzenegger* lawsuit. These inspections will provide information to the federal court, the California Prison Health Care Receivership, CDCR, the Attorney General, the Legislature, the plaintiff's counsel, and the public. This information will assist the receiver and CDCR to ensure that health care meets a constitutional level, and ultimately help to lead the federal court to return the prison medical program to state control. As a result, the OIG has 17 new positions in the 2009-10 Budget to permanently establish two inspection teams to perform inspections at each of the state's 33 prisons on an annual basis.

In addition, as a result of legislative action in the past few years, workload has increased to include warden and superintendent vettings, cycle audits of prisons, and one-year reviews of wardens and superintendents. Further, the need to review or investigate serious incidents, such as the improper release of inmate Scott Thomas, the identification of cross-cutting issues such as the problems in the management of administrative segregations, and myriad of systemic problems in headquarters



programs and functions, such as the untimely billing of union-paid leave, have increased the our need to perform special reviews. Accordingly, in order to ensure that the OIG can provide the necessary oversight of CDCR, we performed a workload analysis and identified 13 additional positions needed, just to address existing workload. These positions, however, were not included in the approved budget enacted on February 20, 2009.

## **C-ROB**

*Among the Inspector General's duties is the chairmanship of the California Rehabilitation Oversight Board (C-ROB). C-ROB was established by Assembly Bill 900 (the public Safety and Offender Rehabilitation Services Act 2007) within the Office of the Inspector General. C-ROB's mandate is to regularly examine the various mental health, substance abuse, educational and employment programs for inmates and parolees operated by CDCR.*

**Q6. As Chair, what is your view of the effectiveness of C-ROB in overseeing CDCR's rehabilitation effort? Are you, and your board, able to analyze and critique CDCR's effort or act primarily to compile information?**

A6. C-ROB has been reasonably effective to date in overseeing CDCR's rehabilitative programming efforts. Board members and board staff have expertise in areas specific to rehabilitative programming and are able to analyze and draw conclusions about the department's efforts. The board has released four reports, which document CDCR's progress and include findings that critique the work accomplished, identify issues that threaten sustainable change, and define expectations to hold CDCR accountable. For example, in the last two reports, the board acknowledged the significant planning and program development achieved but criticized the board for its lack of implementation progress in specific areas. The March 2009 report included a finding on last minute data submissions, which left little time for C-ROB data validation and analysis, and the unavailability of aggregate offender assessment data to substantiate implementation progress. Further, the board clearly stated expectations for future data submissions, and its intent to publish an interim report in June 2009 - three months before the next report is due - to assess implementation progress.

**Q7. Are you satisfied with the tools available to C-ROB to undertake its mission?**

A7. I am currently satisfied with the tools available to C-ROB to undertake this mission. I have two staff members at the OIG who take on a great deal of the C-ROB information gathering and analysis, as well as report production. The board also has a report writing subcommittee who meets to design and write the actual report and discuss future needs from the department. For future reports, I will temporarily place one of my staff at CDCR to help streamline the information acquisition process and assure greater accountability on the part of CDCR. As CDCR moves from the planning phase to rehabilitative program implementation, we also may need to dedicate more resources than currently allocated in order to verify and analyze the progress and data provided by CDCR.

*Last July, C-ROB said it was encouraged by the department's "significant progress" in assessing inmates for their risk to return to prison and their rehabilitative needs. But the board said it remained concerned about the large number of inmates for which assessments had not yet been conducted.*

**Q8. Have you followed up to determine whether more assessments have been conducted?**

A8. Yes, C-ROB has followed up on the COMPAS assessments administered by CDCR and discussed the department's progress in the March 2009 report. For the July to December 2009 reporting period, the department conducted approximately 25,000 core COMPAS assessments and 9,000 reentry assessments bringing the total COMPAS assessments up to approximately 150,000. However, the department experienced problems in merging databases for offender assessments onto a single server causing delays in data entry, retrieval, and analysis of aggregate data. The offender assessment data is available on an individual basis, and the department is relying on aggregated offender assessment data from before the databases merger to guide decision-making about offender programming needs. Because the aggregate offender assessment data is currently unavailable, the board plans to publish an interim report in June 2009. An additional three months should allow the department time to retrieve and submit aggregate data, which in turn will allow C-ROB to report on the rehabilitation needs of offenders, gaps in rehabilitation services, and levels of offender participation and success.

**Q9. Have your reports prompted the department to broaden inmate opportunities for academic and vocational training or improve them in any other significant way? If so, please explain. If not, why not?**

A9. Yes, C-ROB's reports have pushed CDCR to move forward in critical areas, which ultimately will result in more and better programming opportunities for inmates. C-ROB is required by statute to use the work of the *Expert Panel on Adult Offender and Recidivism Reduction Programs* to evaluate the department's progress in developing effective rehabilitative programming, which includes education, vocational programs, substance abuse treatment programs, employment programs and pre-release planning. Our reports ensure the department's planning and development efforts are consistent with the Expert Panel's recommendations. Tracking the department's progress in this manner holds the department accountable for providing programming opportunities to inmates as required by law and for improving the efficacy of programming by ensuring that the department is using evidence based programs. To date, the department has spent much of its time laying the groundwork for rehabilitative programming. While C-ROB has commended the department for its planning and program development work, board members have been equally vocal about needing to see implementation progress.

Holding the department accountable through public meetings and reports has helped to keep the department focused on its end goal. At board meetings, the department reports its progress through presentations and members are able to ask questions and critique where necessary. We gather data and receive progress updates through these open forums as well as at bi-weekly meetings between board and department staff. In addition, the board has experts in rehabilitation make presentations at its meetings to provide various and sometimes contrasting views on rehabilitative programming. The public attends and communicates to the board its ideas on rehabilitation programs, priorities, and criticisms of CDCR.



The C-ROB meetings and reports also push the department to improve rehabilitative programming systematically. For example, in the January 2008 C-ROB report, the board found that it had “not seen evidence of a comprehensive and integrated plan dedicated specifically to improving rehabilitative programming.” Six months later in the July 2008 report, C-ROB reported that the department had developed a *Master Work Plan for Rehabilitative Programming* that details the hundreds of tasks needed to implement fundamental rehabilitative reform throughout the correctional system. In its March 2009 C-ROB report, the Board found that there was a lack of data to substantiate implementation progress and stated its intent to publish an interim report in June 2009 in order to assess the department’s progress. The board understands that a strong foundation is essential to ensuring sustainable reform; however, we expect to see implementation progress and have provided timelines to receive data that will enable us to evaluate whether the department is improving inmate opportunities for educational and vocational training as well as other rehabilitative programming.

**Q10. Are you satisfied with CDCR’s use of this assessment in meeting inmates’ rehabilitative needs?**

A10. The Expert Panel recommended that the department adopt a risk assessment instrument for the prison population; utilize the COMPAS or similar assessment tool for the parole population; develop a risk assessment tool normed for the female inmate/parolee populations and the young adult inmate/parolee populations; norm and validate all the selected risk assessment instruments for CDCR’s adult offender population and validate these tools at least every five years; and use additional evidence-based tools (secondary assessments) to supplement criminogenic needs assessments.

In its July 2008 report, C-ROB reported that the department had begun to use COMPAS assessments at reception centers to assign inmates with an identified need for substance abuse treatment to an institution with a substance abuse program.

In its March 2009 report, C-ROB reported that CDCR had begun to rollout an integrated approach to completing inmate assessments and classification by having the Correctional Counselor I’s instead of teachers conduct both tasks at reception center intake. The department also developed and implemented assessments normed for female offenders and for offenders returning to the community. The department has not yet developed an assessment normed for the young adult inmate/parolee populations. And finally, a COMPAS validation study is currently underway relative to the dynamic criminogenic needs of offenders and is in its second year of research. In the same report, C-ROB noted that the department conducted COMPAS assessments on approximately 1,000 offenders at the California State Prison, Solano demonstration project site and began implementation of the secondary assessments.

I am cautiously satisfied with the work the department has completed to develop and implement the Expert Panel’s recommendations on risk assessments. I, and the other board members, have expressed our dissatisfaction in board meetings and in the last C-ROB report with the department’s inability to provide aggregate assessment data that C-ROB can use to make findings on the rehabilitation needs of offenders, gaps in rehabilitation services, and levels of offender



participation and success. During the Fall of 2008, the department experienced problems in merging databases for offender assessments onto a single server causing delays in data entry, retrieval, and analysis of aggregate data. C-ROB will not be satisfied with COMPAS until we can analyze aggregate assessment data and see the results of the rehabilitative programming provided to inmates at the Solano demonstration project.

## Priorities

*Your office reported that for the first three quarters of 2008 it received 2,788 complaints, or an average of 310 per month.*

**Q11. How do you decide which complaints to pursue? Do complaints from officers, inmates, or juvenile offenders receive priority over citizen complaints? Please explain.**

A11. The OIG receives complaints from various sources, including inmates and/or, their families and attorneys, CDCR staff, the CDCR Secretary, the Legislature, and the Governor's Office. A complaint's priority for action is based on the type and seriousness of the incident – not the complainant. Although the complaint process is an important component of our investigative process, it is important to note it is only one venue we use to initiate investigations, inspections and audits.

Changing the way that the OIG reviews and prioritizes complaints was one of my first initiatives when I became the IG. In the past, the OIG directed its audit and investigative resources using a reactive, complaint-driven process. Over the past several months, we have implemented a thorough internal process to determine the priority of complaints and the actions to be undertaken. We have developed and adopted an allegation matrix that directs our attention to investigations having the most impact in assisting CDCR to carry out its mandates as well as maintaining our oversight responsibility. The matrix focuses on the following areas in non-priority order:

- Large scale fraud and waste of funds;
- Serious inmate injuries and deaths (other than natural causes);
- Ward deaths;
- Inmate incidents resulting in serious staff injury or death;
- Ward incidents resulting in serious staff/ward injury;
- Death of civilians caused by inmates or parolees;
- Civil rights violations;
- Sex offenses by staff on-duty;
- Serious complaints from wards and inmates;
- Major security breaches;
- Large scale disturbances/riots;
- Retaliation; and
- High profile incidents with potential for criminal or civil action.

My staff continually examines new ways to identify serious issues requiring our attention such as using trend analysis and the review of specific accounting processes to identify fraud, waste and

abuse. Through this proactive process, as of January 1, 2009, we have initiated approximately 70 investigative reviews of issues (called *Pipeline* investigations) meeting our matrix criteria.

With respect to allegations of wrongdoing, the OIG receives complaints through its central intake unit. As stated above, complaints can originate from a variety of sources. The OIG intake staff reviews the information provided and contacts the complainant or OIG investigators are assigned to obtain additional information needed to assess the veracity of the allegations irrespective of the source or who filed the complaints. Based on this initial investigation and intake staff's recommendation that the allegation merits an investigation, the intake unit forwards the complaint to the Central Intake Committee, headed by me, for review and determination for the proper course of action.

Additionally, allegations may come to the OIG through the CDCR's Central Intake Panel (CIP). When CDCR receives preliminary information concerning an allegation of employee misconduct, the CIP evaluates the allegations/complaints for a determination of action. At the same time, the OIG's Bureau of Independent Review (BIR) participates in the CDCR CIP process and evaluates whether the allegation/complaint meets the OIG threshold for investigation. If it does, the allegation is referred to the OIG central intake committee for a determination of action. The allegation/complaint is either accepted for investigation or rejected and referred back to CDCR's Office of Internal Affairs.

The OIG's Bureau of Audits and Investigations (BAI) also conducts management review audits of state prison wardens and correctional facility superintendents, special review and audits of correctional agencies and programs, and investigations into alleged misconduct by employees of correctional agencies.

**Q12a. How do you decide what to audit?**

A12a. Our audits are based on consideration of several factors including statutory requirements and an evaluation of the risks associated with specific institutions, programs, or activities. However, the majority of audit work is driven by statutorily mandated cycle audits of institutions and one-year reviews of wardens. We do perform discretionary audits and inspections and the factors considered when selecting and prioritizing those audits are described below along with recent examples:

- The potential risk to the public, staff, inmates, and institutional safety and security. *Special Review into the release of inmate Scott Thomas; Special Review into the Death of Correctional Officer Manual A. Gonzales;*
- The severity of the violation/potential violation of laws, regulations, policies, and procedures. *Special Review: Management of CDCR's Administrative Segregation Unit Population; Special Review of High Risk Issues at Heman G. Stark Youth Correctional Facility;*
- The potential financial impact to the institution, the department, and state. *Special Review of Substance Abuse Contractors; Special Review of Union-Paid Leave Reimbursements Owed to CDCR;*



- Whether there are potentially significant violations of inmate or employee rights. *Special Review: Management of CDCR's Administrative Segregation Unit Population*;
- Whether significant public policy issues are involved and overall importance to the state. *Medical Inspection Results at California State Prison, Centinela; RJ Donovan Correctional Facility; California Medical Facility; and California State Prison, Sacramento.*

**Q12b. What is the goal of the audits?**

Q12b. The overarching goal for our audits is to help safeguard the integrity of the state's correctional system: in effect, to act as the eyes and ears of the public in overseeing the state's prisons and correctional programs. Our audit reports are published and distributed to the department, the Legislature, the Administration, and other stakeholders and are available for the public on our website. The public release of the reports provides a powerful incentive to address the problems afflicting the state's correctional departments and institutions. This public posting is critical because prisons are, by their very nature, places where most events occur outside the public view.

The specific goals of our audits are to:

- identify fraud, waste, and abuse;
- evaluate the performance of wardens and superintendents in discharging their duties;
- evaluate the operation of institutions and programs for compliance with applicable laws, regulations, policies, and procedures; and
- identify inefficiencies and opportunities for operational improvement.

Our audits provide recommendations to the department to correct problems; improve performance; prevent fraud, waste, and abuse; and achieve compliance with laws, regulations, policies, and procedures. Further, to encourage the department to implement our recommendations or otherwise take corrective action, we follow up through our annual Accountability Audit where we evaluate the status of prior audit recommendations that have not been implemented.

**Q12c. Is one of the goals to get CDCR to do a better job of policing itself?**

A12c. The OIG's audits provide information to the department, Legislature, stakeholders, and public regarding the problems and shortcomings in the operations of the state's correctional system. That information is intended to both compel the department to correct the immediate, existing problem, as well as drive fundamental change in how it does business to prevent future problems. Therefore it is absolutely one of our goals that the department utilize our recommendations and other information to better monitor its performance and the performance of its staff.

To reinforce our belief that it is imperative that the department police itself, it is common for us to recommend measures such as: publicly reporting on its performance in areas where we have identified problems; implementing systems to monitor employee or contractor performance; and conducting compliance reviews of specific programs or functional areas.



In addition, our annual Accountability Audit is intended to compel the department to review and evaluate areas with previously identified problems at least annually.

Further, given the size of the department in comparison to the OIG, it is not realistic to believe that we can effectively monitor all aspects of CDCR's operation. Therefore, it is critical that the department aggressively implement measures and systems to police itself. The OIG's vigorous oversight is a powerful agent for change. However, our work must be supported and complemented by active and effective self-monitoring by the department.

**Q13. Are there other issues you choose to investigate that do not fall into the categories listed in questions 11 & 12?**

A13. Yes. The Office of the Inspector General also conducts the following proactive activities to identify areas for potential investigation or review.

- **Special Reports** – Inspectors conduct examinations of issues regarding systemic problems affecting the safety of the public and the security of CDCR facilities and personnel and report their findings to the public in the *Special Report* format;
- **Pipeline Investigations** – *Pipeline* investigations, described in A11 above, involve rapid fact-gathering and research in response to incidents, trends, and news events involving parolees, inmates, and correctional programs of significant impact to the community. The preliminary data compiled by inspectors is then used to determine whether an investigation is warranted regarding the problem;
- **On-View Investigations** – Inspectors may identify a violation of policy or law while involved in an unrelated task with the department. The evidence/data is then used to establish whether the information should be forwarded through our intake process or referred to CDCR's Office of Internal Affairs (OIA) for investigation;
- **Gang Liaison** – Because gangs are a significant detriment to our communities and overall safety, the OIG created the position of gang liaison officer to address and review issues involving gang activity adversely affecting CDCR's ability to effectively rehabilitate the inmate and parolee population. Additionally, we will also examine CDCR gang enforcement programs and gauge their effectiveness; and
- **Vetting process** – During the vetting process, inspectors conduct between 60 and 70 interviews regarding a warden candidate's qualifications. In addition to addressing questions posed by inspectors, many interviewees share information with inspectors regarding potential misconduct, employee disputes, and other information they otherwise would not report to the OIG or CDCR. The information/data is analyzed to establish whether the information learned should be forwarded through our intake process or referred to OIA for investigation.

We also perform semi-annual inspections at all in-state youth and adult prisons in the state. These inspections are used to identify potential issues for audit or investigation, provide our office with additional information from staff and inmates who have the opportunity to make complaints or

identify issues of concern, and make recommendations for operational improvement to management.

*Your office also reported seeking a \$3.3 million general fund budget augmentation for 17 positions to perform medical inspections at all prisons, as well as follow-up inspections at some facilities?*

**Q14a. Please explain the goal of the medical inspections?**

A14a. The goal of the medical inspections is to provide objective, comprehensive, and timely information regarding the level and quality of medical care delivered at each institution. This information is important to the federal court, the receiver, CDCR, the Attorney General, and the plaintiffs' counsel in evaluating whether the state is providing a constitutionally adequate level of medical care, pursuant to the provisions of the *Plata* litigation.

**Q14b. Were you asked to conduct these by the federal medical receiver?**

A14b. Yes, the initial request to develop the medical inspection program came from the federal receiver. In its order appointing the receiver, the federal court ordered the receiver to develop methods for measuring the success of the receivership and the receiver's efforts to bring prison medical care up to constitutional standards. To comply with the court's order, the receiver in its May 2007 Plan of Action identified his intent to use the OIG to develop and implement the medical inspection program to provide monitoring of efforts to achieve constitutional care. This plan was developed with the assistance and input of all the parties and filed and approved by the court. In addition, there is a stipulation pending with the federal court that would formally recognize the inspection process and order my office to perform the medical inspections consistent with the provisions of the stipulation. Further, the plaintiffs' counsel have stipulated to the OIG's medical inspections to evaluate the access to and quality of care in the state's prisons.

**Q14c. Will the reports go to the receiver, and will his office be obliged to follow your recommendations?**

A14c. The receiver and prison medical staff receive both a draft and final report for each inspection. The receiver is provided the opportunity to respond to the draft report as well as provide additional information related to identified instances of non-compliance. The receiver's response is included as a part of the final published public report.

The OIG does not have the authority to order or compel the receiver to take specific action. However, we expect that each institution under the direction of the receiver will review each item of non-compliance to identify underlying causes and take all appropriate corrective action, which might include policy and procedural changes, training, and/or disciplinary action. The institutions do not submit specific corrective action plans, which would take significantly more resources for us to separately track, evaluate, and validate. However, the receiver's responses for inspections performed to date have often included information regarding corrective actions taken or planned. The effectiveness of any corrective actions taken by the receiver and institutions are evaluated through the performance of the next inspection, one-year later.



In addition to providing copies of the report to the receiver and institution medical staff, the reports are also provided to the Administration, CDCR executive management, the Attorney General, the federal court, and plaintiffs' counsel. Further, to bring transparency to the issue of prison medical care the final reports are posted on the OIG website for public viewing.

## **Warden Vetting**

*The Senate no longer confirms wardens at individual prisons. Instead, your office is tasked with vetting them for suitability.*

### **Q15a. How would you evaluate the effectiveness of your process of vetting wardens?**

I believe that the OIG has developed a thorough and fair process to evaluate warden and superintendent candidates. One way to gauge the accuracy and ability of the OIG to recommend appropriate warden candidates is by examining the wardens' performance after confirmation. California Penal Code section 6126(a)(2) requires that the OIG perform one-year management reviews for appointed CDCR wardens. Without exception, these reviews reveal that the appointed wardens are effective leaders and recommend that each continue serving in their capacity as warden. To date, no wardens vetted by the OIG and recommended as qualified or above have been removed for cause. Since September 2005, the OIG has completed 39 warden and two superintendant vettings.

### **Q15b. Are you able to make a judgment about who is capable of providing the leadership and level of supervision so important at our large state prisons?**

**A15b.** Candidates for warden go through two independent and comprehensive investigations comprised of the following three components: personal background, vetting at the facility, and a one-on-one interview with me.

Our evaluation includes a thorough background investigation of the candidate to ensure their personal history displays the conduct and character the public expects of high ranking law enforcement officials. The vetting process includes several visits to the respective correctional institution to review physical facilities and interview scores of stakeholders including current and former co-workers, subordinates, union representatives, public interest organizations, and inmates. Another important source of information is the BIR attorneys who monitor the warden's handling of critical incidents and disciplinary actions on a real-time basis.

After the warden evaluation and investigations are complete, I specifically address issues of concern with the candidate during a one-on-one interview. I evaluate the candidate's responses to these criticisms and concerns in determining the candidate's ability to appropriately address the problems faced by a warden.

Based on the results of the above, the candidate receives one of four ratings—exceptionally well qualified, well qualified, qualified, or not qualified—and we prepare a report with my recommendation for the Governor's Office.



*Several individuals who retired from CDCR as wardens are now interested in returning to be wardens, not as retired annuitants but as full time wardens.*

**Q16a. Do you have any insight from your vetting process about why this is occurring?**

A16a. The new leadership at CDCR coupled with the current economic downturn appears to have had a motivating effect on some retired wardens expressing interest in returning full-time. In addition, the opportunity to take advantage of the enhanced PERS retirement formula now available to state peace officers cannot be overlooked. In addition, the department has a limited number of staff with sufficient experience and interest to become a warden and has reached out to former wardens. Compounding this situation is the receiver's recent hiring of wardens, executive staff, and managers leaving a vacuum of experienced staff for candidates. Clearly, a warden candidate with previous warden experience may have the technical expertise to be effective in certain areas but will also lack the benefit of having lived through the many significant reforms in CDCR over the last 5 years. Although certainly not dispositive on the issue of competence, we look very hard at a previously retired warden to assess their capability to be an effective warden in the CDCR of today.

**Q16b. As part of your vetting process do you look into how competently they managed the prison under their jurisdiction in the past?**

A16b. Yes, a comprehensive review is conducted of their previous vetting (if vetted by the OIG) and the following areas during their tenure as warden:

- strengths and weaknesses from previous vetting;
- issues with their management of the previous facility;
- investigations, audits, and inspections conducted;
- EEO/ERO/OIA/SPB and internet checks of complaints filed;
- issues in COMSTAT reports; and
- results of CDCR Peer Reviews.

Key considerations are how long it has been since they were a warden and if they were ever vetted by the OIG. I also solicit informal feedback on past performance from the legislative staff, local law enforcement leaders and civil attorneys to determine if issues arose with past performance as a warden occurring prior to the advent of the OIG vetting process. Another key indicator is whether or not a warden candidate has fully cooperated in the reforms mandated in the *Madrid* case.

**Q17. Based on your experience with the warden vetting process, do you have any recommendations for the type of management and leadership training CDCR should be providing to make its managers "readier" to become wardens?**

A17. Based on our experience with the warden vetting process, I have three recommendations: create a mentoring program; create structured leadership training; and create a job shadowing program. A mentoring program could include prospective candidates working with the current warden to observe day-to-day activities and handling of critical situations; the chief deputy warden or other candidates performing as acting warden under the supervision of the assigned warden; and assigning the new warden to a mentor who is currently working as a warden. Leadership training could include examining the differences between the duties of the chief deputy warden and the

warden; potential issues and pitfalls to avoid as a warden; crisis scenario training and learning the political aspects of the warden's position. If the warden candidate has little or no custody experience, job shadowing would allow the candidate to work with a warden from another facility for a period of time to ensure he/she is trained and knowledgeable on security issues.

### **Board of Parole Hearings**

*The Board of Parole Hearings (BPH) determines the suitability for parole of life-term inmates, such as someone serving a 15-years-to-life sentence.*

**Q18. Do you have responsibility for providing oversight for BPH? If so, how do you exercise it? Do you have enough staff to regularly look into the activities of the board? If not, have you asked for staff to provide oversight of the board?**

A18. Yes, the OIG has oversight authority for BPH as it is a subdivision of CDCR. We exercise our authority through audits and reviews of the operation and management of BPH and investigation of its employees. In the past the OIG has done two broad reviews of BPH that covered topics such as:

- Indeterminate sentence hearings and appeals;
- BPH decisions;
- Hearings for mentally disordered offenders;
- Supervision of deputy commissioners; and
- Interpretation services procedures.

The BIR oversees internal investigations and disciplinary actions against BPH staff, and BAI has monitored significant issues and recommendations to BPH through its annual Accountability Audit.

The OIG is in the process of preparing its 2009-10 and 2010-11 work plans and will be reviewing BPH and its specific programs and functions (such as those identified above) for audit in the next year.

As mentioned above in A5, we submitted a BCP for an additional 13 positions in the FY 09/10 Budget process following a workload analysis. Although these positions were not specifically dedicated to BPH or any particular OIG project, I realize that we lack sufficient resources to fully examine all areas within the CDCR umbrella. As I fill vacant positions that came to the OIG in the 08/09 Budget, my ability to examine new areas within CDCR will significantly increase. We will continue to advocate for the resources necessary to provide comprehensive oversight to the department as we move forward.

### **Juveniles**

*The court in Farrell v. Schwarzenegger has been very critical of the administration efforts to reform the Division of Juvenile Justice. At the same time, the Little Hoover Commission recently recommended that the state eliminate its juvenile justice operations by 2011.*



**Q19. Please explain how you see your role in ensuring that California has a well-run juvenile justice system that uses high standards to educate and treat offenders.**

A19. The operation of the Division of Juvenile Justice DJJ and the wards under its control clearly fall under the OIG's oversight authority. Therefore, the OIG is firmly committed to providing oversight of DJJ in the discharge of its responsibilities. Specifically, the OIG has performed 16 reviews of DJJ and its facilities since 2000. Those audits have included facilities such as:

- Preston Youth Correctional Facility;
- Heman G. Stark Youth Correctional Facility;
- Southern Youth Reception Center;
- N.A. Chaderjian Youth Correctional Facility; and
- Ventura Youth Correctional Facility.

The OIG has also reviewed special management programs (restricted programs, frequently referred to as 23 and 1 programs) and intensive treatment programs. In addition, since 2005 the OIG has reviewed DJJ's actions to address open findings and recommendations through comprehensive accountability audits.

**Q20. Please describe your specific DJJ projects and those planned for the next year.**

A20. The OIG performs ongoing inspections of each DJJ facility at least twice a year and routinely sends staff out to review/investigate specific issues that come to our attention. For example, when a rash of suicide attempts occurred at the Ventura Youth Correctional Facility last year, we sent staff there several times to review and evaluate the situation and provided a management letter to the superintendent. In addition, the OIG through its ongoing monitoring of prior audits in its Accountability Audit continues to push the DJJ to:

- Define in its policies and procedures the minimum required time (three hours) that restricted program wards must be allowed out of their rooms, consistent with the requirements of the *Farrell v. Tilton* Consent Decree;
- Define globally and uniformly the policies and procedures related to the minimum standards for wards' living quarters, in order to enable DJJ facilities to provide safe living conditions for wards in restricted programs;
- Ensure that wards receive mandated services and implement procedures to ensure that the provision of such services is documented and monitored; and
- Acknowledge that Heman G. Stark Youth Correctional Facility operates a step-down program, as an extension of its special management (restricted) program, and provide those wards with protections regarding minimum time out of their rooms and access to programming.

Currently, we are in the process of preparing our 2009-10 and 2010-11 work plans and will be reviewing specific DJJ facilities and programs such as the special management program, education, sex behavior treatment, healthcare services, mental health treatment, and safety and welfare for audit in the next year. In addition, the BIR's medical monitoring program is intended



to respond to all juvenile deaths and provide an independent review of the circumstances surrounding the death within 30 days. The OIG is also considering expanding the program's scope for DJJ to include failed suicide attempts.

## **Prison Costs**

*Last November six doctors at Salinas Valley State Prison were charged with fraud for allegedly filing falsified time sheets. The state allegedly was overbilled \$160,000. At the time, you told the Monterey County Herald that you were committed to uncovering fraud in a "time of mounting prison costs and taxpayer scrutiny."*

**Q21. Please cite other examples when you've investigated rising prison costs and if your efforts lead to cost savings.**

A21. California is facing the worst fiscal crisis in a generation. Seeking out fraud, waste, and abuse within CDCR is a core function for the OIG. In the last six months, we have redirected staff to a newly formed Fraud Investigations Unit (FIU). The FIU was responsible for the investigation leading to the indictments against six doctors at Salinas Valley State Prison in November 2008. The FIU has recently opened an investigation into \$7.8 million in overpayments being made to medical providers who have treated CDCR inmates; has just completed a Special Report which identified \$1.3 million that was inappropriately paid to CDCR employees who were adversely separated from CDCR; and is currently finalizing a Special Report that identifies CDCR inmates bilking taxpayers out of millions of dollars annually by filing fraudulent tax returns.

In addition to investigating potential instances of fraud, we perform audits that attempt to identify wasteful practices and/or ineffective management and make recommendations to reduce or recover costs. For example, in our audit of CDCR's management of administrative segregation units, we determined that the department's untimely release of prisoners could be costing the state over \$10 million annually.

In our recent audit of union paid leave, we identified that the department was not timely billing SEIU for employees' leave with potentially over \$2 million dollars still to be collected. And, in our audit of Salinas Valley State Prison, we determined that the inappropriate placement of inmates not eligible for day-for-day credit in job assignments and educational classes was prolonging the stay of other inmates who were eligible for day-for-day credit. Needless to say, prolonging the inmates' time in prison exacerbates overcrowding and results in unnecessary costs to the state. Although we were not able to project the statewide effect for these mis-assignments, clearly the department could save a significant amount of money annually, just by more effectively assigning inmates to jobs and classes.

*In a recent report, your office cited repeated failures by some prisons to comply with CDCR policies and due process requirements for inmates. You found that some inmates were being held in administrative segregation units for an inappropriate length of time. You reported that this resulted in the denial of inmates' due process rights "while potentially exposing the department to costly litigation." You estimated that these confinements resulted in millions of dollars in unnecessary expenses.*

**Q22. Please describe any follow-up your office has done on this report and what the department is doing to correct the situation.**

A22. The review of the administrative segregation management was released on January 15, 2009. Therefore, additional follow-up has not been performed to date. However, we view the violation of inmate due process rights and the significant waste of state funds as grave matters and are in the process of including procedures to review the management of administrative segregation units in all our institutional audits. In addition, this matter and any subsequent findings related to the management of administrative segregation will also be followed up in our annual Accountability Audit, which reviews the status of CDCR's actions to address open findings and recommendations from our various audits.

### **Relationship to CDCR**

*CDCR has a force of internal investigators who look into inappropriate activities by prison employees. OIG tends to focus on larger management issues, such as the overall operation of a prison. The Bureau of Independent Review, which is under OIG, is responsible for oversight of internal affairs investigations conducted by CDCR.*

**Q23. Please explain how you interact with CDCR internal investigators and the level of cooperation between the two agencies in investigations.**

A23. The BIR interacts with CDCR internal investigators and the department attorneys that handle disciplinary investigations and adverse actions on a daily basis. In particular, we monitor these investigators from the time a case is assigned until a case report is submitted to the district attorney responsible for criminal charges or the hiring authority responsible for deciding on discipline, if any. We similarly monitor CDCR attorneys from the time a case is assigned through the service of an adverse action, if any, and any ensuing SPB hearings, if appealed. As part of the *Madrid* Remedial Plan, we co-located BIR offices in Sacramento, Bakersfield and Rancho Cucamonga with OIA offices to foster a close working relationship. We are still working to align the department's legal affairs offices but have only been successful to date in Sacramento.

Since the bureau's inception, we have worked diligently to develop strong working relationships with internal investigators and staff counsel at CDCR. Thanks to strong leadership in internal affairs, the level of cooperation between the bureau and investigators is very good. Generally speaking, investigators provide bureau staff with timely notification of case activity and are responsive to bureau recommendations and concerns. The level of cooperation with CDCR attorneys is not as strong, but has increased over time. The majority of staff counsel consult with BIR regularly but, regrettably, a fair number of staff counsel remain resistive to OIG oversight. These issues are discussed regularly with CDCR managers in legal affairs, and I fully expect that they will be resolved over time through training, stronger leadership, and/or personnel changes.

**Q24. If there is, for instance, an officer-involved shooting at a prison, please explain the role of the Bureau of Independent Review. Does that office, in effect, look over the shoulder of CDCR investigators? If so, what happens if the bureau disagrees with the outcome of the CDCR investigations?**



In the event of an officer involved shooting involving deadly force by an employee of CDCR, the BIR immediately dispatches a bureau attorney to monitor the institution's response to the incident as well as the investigators assigned by the department. The BIR assumes two roles: to assist the officials responsible for the incident with whatever expertise might be asked of our staff; and to ensure that CDCR staff comply with state law, regulations, and department policies and procedures in handling the incident. The BIR monitors in real-time any resulting investigation conducted by the department into the shooting to ensure the matter is handled timely, thoroughly, and fairly. Near the conclusion, the bureau will attend the review performed by the department's Deadly Force Review Board and evaluate the board's report to the department.

We publicly report the outcome and quality of the department's investigation of each case monitored through the BIR semi-annual report. Moreover, in the event of a disagreement with the department, the bureau may issue a separate public report detailing the incident, the department's response, and the bureau's concerns.

**Q25. When you identify problems, mistakes, or shortcomings within correctional agencies you monitor, how does your office follow up to ensure the issues are addressed in a timely fashion?**

A25. The OIG performs a comprehensive annual Accountability Audit, which follows up on prior findings and recommendations that have not been addressed. This process began in 2005 after it became apparent that CDCR was not taking timely or effective action to address many of the issues that the OIG had identified. The comprehensive approach is beneficial as it spotlights in one document CDCR's overall performance in addressing numerous issues across the entire spectrum of its operation. As such, it prevents inaction in any single area from going unnoticed and provides better insight into CDCR executive management's commitment to organizational improvement and accountability. The Accountability Audit also provides the OIG with a way to efficiently track CDCR's progress and keep important issues in the public eye. This approach has caused CDCR to ultimately take action on many items that had languished unresolved for years. In addition to the comprehensive annual Accountability Audit, the OIG has the option to perform individual follow-up audits if the issues merit more frequent monitoring. However, resource constraints can be a factor that limits individual follow-up audits.

The OIG also uses its semi-annual inspection process as a cost effective way to follow up on certain issues to more quickly determine whether problems have been addressed and to further spur the department to action. For example, on October 31, 2007, the OIG released its report on *Special Review into the Release of Inmate Scott Thomas*, which identified significant failures in the case records and inmate release process at San Quentin State Prison. In our subsequent semi-annual inspection in March 2008, we identified areas of improvement that had occurred in the intervening four months. The consistent presence of the OIG through its semi-annual inspection process brings additional pressure on the department and institutions to address findings and recommendations in a timely manner.

For medical inspections, I expect that each institution under the direction of the receiver will review each item of non-compliance to identify underlying causes and take all appropriate



corrective action, which might include policy and procedural changes, training, or disciplinary action. The effectiveness of any corrective actions taken by the receiver and institutions are evaluated through the performance of the next inspection, one year later.

There are a variety of methods available to the OIG to ensure timely action by the department when the BIR identifies shortcomings in CDCR's handling of disciplinary matters. First, BIR consults directly with the stakeholders who were either involved in the missteps or have responsibility for correcting the missteps. Second, BIR meets regularly with all CDCR directors so that systematic or case-specific issues can be raised and remedied timely. Thirdly, the bureau directs a number of public reports and confidential memorandum concerning areas of concern to CDCR management for its review, with particular emphasis on actionable recommendations for each problem addressed. Finally, in the event of a significant disagreement between BIR and department management either party may invoke 'executive review,' thus elevating the issue up their respective chains of command for resolution. Executive reviews have been invoked by both sides on a number of occasions (though historically rare) and have been resolved at the first level of appeal. In some instances, however, a critical mistake has been elevated several levels before reaching a resolution satisfactory to all. This is an important component of the BIR-department relationship in that it helps ensure dialogue, collaboration, and compromise between the parties in some of the most significant areas of disagreement.

In conclusion, I would like to thank you for the opportunity to address the Senate Rules Committee regarding my appointment to the position of Inspector General. I look forward to appearing before your Committee on April 1, 2009 and addressing your questions or concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "David R. Shaw". The signature is fluid and cursive, with a long horizontal stroke at the end.

DAVID R. SHAW  
Inspector General

**Hedy Chang**  
**Response to Questions from Senate Rules Committee**

**Statement of Goals**

1. *What efforts have you made to advance your previously stated goals? Do you believe you have met your goals?*

I have actively participated in all board meetings, committee meetings, and reviews of disciplinary actions. I served as a Vice Chair for the Licensing Division and Chair for the Cultural and Linguistics Committee. I also serve as a board member for the Federation of State Medical Boards, which provides for California to have input into Medical Board policy issues at the national level. This is both an honor and responsibility I enjoy on behalf of the State of California. I believe I have worked very hard to set out to do what I have committed to do.

On the more specific action goal of the Enforcement Monitor's Report, we have implemented, and are still working on implementation of some of the important recommendations in the report.

2. *What are your current goals and objectives as a member of MBC? Are they different from your original goals as an appointee? How has your board experience influenced the way you now approach your duties?*

My original goals are still good general goals. Additional goals would be:

- 1) Emphasizing more internal control to improve the efficiency of all our board operations through strategy planning and continuing monitoring.
- 2) Focus on more public disclosure and increased access to care.

**Board Restructuring**

3. *Has the new structure made the board more efficient? If so, please describe the increased efficiencies.*

Yes and no. All the board members are involved in all issues and all board members are engaged, therefore we are inclined to make better decisions. Since the board members number has decreased with the work load somewhat remaining the same, some of the policy issues that were being addressed have been addressed less thoroughly and important issues such as public disclosure and access to care do not get their fair share of attention. To enhance the efficiency, the executive board may need to meet more often, or try to increase the number of board members from 12 to higher.

**Senate Rules Committee**

APR 06 2009

**Hedy Chang**  
**Response to Questions from Senate Rules Committee**

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**Senate Rules Committee**

APR 06 2009



4. *You formerly served in the Division of Licensing, which was responsible for implementing the licensing provisions of the Medical Practice Act. Under the new structure, board members must be proficient in both licensing and enforcement policies. How have you been trained to be familiar with the enforcement policies?*

I have gone to all the hearings on a regular basis after I got on the board around 2004, even when I was on the licensing side. After the restructuring, the board staff has provided training sessions at board meetings. Training education was provided by staff and Attorney General lawyers.

## **Vertical Enforcement**

5. *Why has the vertical enforcement model failed to significantly reduce investigation and prosecution time frames, as envisioned?*

There are three major obstacles for the successful vertical enforcement model.

- 1) Resources for MBC staff retention.
- 2) Incompatibility of computer systems between both identities.
- 3) Correlation between both offices is sometimes difficult because it is not the same office.

With the executive orders to eliminate medical consultants and court reporters last year, there was additional delay.

6. *Have the recommendations adopted by the board in July 2008 been implemented? If so, do you believe they have had any impact? If not, what steps need to be taken to make the system more efficient?*

The recommendations are being implemented.

- 1) A proposal to implement the new case management IT system has been approved and is moving forward.
- 2) A study to support increased compensation for board investigators is underway.
- 3) Meetings between executive people are on a regular basis.

The impact will not be seen for some time.

The board is also seeking legislation on the issues of allowing the board to access medical records with patient's notification and certification of medical records upon request by the board.

The Board has also requested OAH set Medical Quality Hearing Panel cases within 120 days of receipt of the Request for Hearing; limit granting continuances only for good cause; and to use Administrative Law Judges assigned to a special panel designated to hear Medical Board cases.

## **Public Disclosure**

7. *Do you believe that the board's existing disclosure provisions are sufficient to enable consumers to make informed choices when selecting a physician? In your opinion, how could the board's public disclosure processes and policies be improved?*

No, it is not enough. I personally also believe that all medical malpractice should be disclosed. But it was not the will of our system.

On the question of improving the public disclosure, some of the CRP report suggestions, such as expanding the new web service license look up, should provide a better access to information about physicians (which is being implemented by the staff). And the issue of posting a sign about the Medical Board in the physicians office (addressed in Education Committee) should be a start.

This issue is an issue needing continuous enhancement and should have additional follow-up by the board to establish further priorities. I was made aware that a bill concerning this issue will be introduced in Assembly shortly.

8. *What steps has the board taken in response to the report?*

The board has not taken any official stance besides the above actions. The board should work on additional follow-up steps.

## **Peer Review**

9. *Do you believe the Lumetra report accurately identified the problems with the peer review process? What efforts has the board taken in response to the report? In your opinion, how could the peer review process be improved?*

The Lumetra report has some deficiencies. It does not provide sufficient information when the peer review is taking place in hospitals or clinics.

The staff has worked with Senate BMP to discuss the report several times. There are four sponsored bills on the peer review currently and the board staff is working with all the sponsors to address the issues. The issue with the Medical Board on peer review is earlier notification to the board with peer review findings, and immediate release to the board of the results.

10. *In your opinion, how could the board work with the appropriate regulatory bodies to improve peer review?*

Staff is working with all the appropriate agencies in an open discussion format such as: consumer groups, departments of public health, hospital associations, sponsors of the bills, etc., to improve peer review in all aspects.

## **Regulation of Fertility Doctors and Clinics**

11. *Should the board act to more closely regulate fertility doctors and cosmetic surgeons and to regulate the treatment of their patients?*

We should thoroughly evaluate this issue but not over-regulate. The board has the appropriate law to effectively regulate physicians, but enhancement can be made. "Standard of practice" by the speciality board can be used as a guideline to evaluate the doctors' behavior. AMA Code of Medical Ethics should apply to overall philosophy on the selective surgery issue.

### **Code #6**

"A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate and the environment in which to provide medical care." Emphasis is the word "appropriate."

On the issue of Senate Bill 674, clinics and centers have always been under Department of Public Health. It would not be effective for the board to take over these clinics and their accrediting agencies.

## **Economic Impact on Board Operations**

12. *Given the cuts in temporary staff, reduction of staff hours, and restrictions on personal services contracts, how will the board ensure it is able to meet the needs of its constituents in a timely and efficient manner? Are there any backlogs in the board's licensing and/or enforcement programs as a result of the staff cuts? If so, how will the board address those backlogs?*

The Board has actively hired temporary help to catch up, and commissioned a study to determine the investigating staff's proper pay scale.

We are currently behind in licensing because this is the crunch time where about one thousand applicants need to be licensed by July 1<sup>st</sup>. Staff is working weekends and evenings to get it done.



13. *How does the board prioritize its responsibilities, particularly given current budgetary realities?*

The budget of the State does not impact the Medical Board as significantly as the rest of the administration. The staff keeps the board informed if there is an issue developing.

### **Workforce Development**

14. *Please describe the status of the board's plan for addressing access to care and the shortage of doctors.*

There are several actions taking place.

1) The board has established and supported the physician loan repayment program and supported the new fee structure that was established to fund the program.

2) We had a wellness bill that would address the retention of the physicians. Unfortunately the administration opposed the concept.

3) The board is implementing a tele-medicine pilot program focused on chronic disease management. The pilot program will provide access to diabetic specialty care from medical centers to underserved rural safety-net clinics.

4) Cultural and Linguistic Competency group is working to extend a web site to provide current CLC educational information to health providers.

15. *Has the board made any effort to encourage high school as well as college students to consider jobs in health care professions?*

The board has not been working to encourage high school and college students to consider jobs in health care professions. Nationwide, and in California, there are always a considerable amount more applicants than spaces in medical schools.

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April 3, 2009

Ms Nettie Sabelhaus  
Senate Rules Committee Appointments Director  
Room 420, State Capitol  
Sacramento, CA 95814

Dear Ms Sabelhaus,

I appreciate the Senate Rules Committee's role in conducting a confirmation hearing on my reappointment as a member of the Medical Board of California (MBC), and its request to respond in writing the following:

**Statement of Goals**

1. *What efforts have you made to advance your previously stated goals? Do you believe you have met your goals?*

My efforts to advance my previously stated goals have been that I have paid close attention to monitoring the Board's functions and have directed staff to carry them out on a timely basis. Likewise, I have consistently voted to comply with legislative mandates and requirements. I have actively participated in all Board meetings, Committee meetings, Board activities, review of disciplinary actions, and remain the Chair of the Wellness Committee. I believe I have met my goals when one looks at my participation and voting records for the past four years.

2. *What are your current goals and objectives as a member of MBC? Are they different from your original goals as an appointee? What do you hope to accomplish during your next term? How will you measure your success?*

My current goals and objectives are as follows:

- Continue original goals.
- Contribute to making the Board as effective as possible.
- Make the Board's activities and decisions more accessible to the public.
- Reach out to physicians and encourage them to take advantage of and participation in wellness activities.

Senate Rules Committee

April 1, 2009

Appointments

If my goals are met, I hope the Board will see less consumer complaints and more physicians will have a better balance between life and work. The success will be measured by my achieving the above stated goals.

#### **Board Restructuring**

3. *Has the new structure made the board more efficient? If so, please describe the increased efficiencies.*

The new structure of combining licensing and enforcement has been effective. As a Board Member, I feel more fully informed and it is a better use of Members' time to have all issues vetted amongst all Board Members. In addition, this allows all Board Members to be fully informed as it relates to all legislation that affects licensing and/or enforcement. In regards to the reduction in the number of Board Members, this change has caused difficulties in several areas. Because of the complexities of health issues, and also efforts towards significant health care reform at the state and national level, the Board needs more physician members. The Board Members have been required to take on a much heavier workload to assure all committee and panel work is completed. The Board would be better served by having at least 19 Members.

4. You formally served in the Division of Medical Quality, which was responsible for implementing the disciplinary provisions of the Medical Practice Act. Under the new structure, Board Members must be proficient in both licensing and enforcement policies. How have you been trained to be familiar with the enforcement policies?

Board staff provides professional training to all Board Members which I participate in. I have also attended additional training provided by staff at a Board Retreat that provided cross training for all Members in 2007. Staff also arranges for education and training sessions at Board Meetings. Board staff remains a resource on any particular issue that may need clarification.

#### **Vertical Enforcement**

5. *Why has the vertical enforcement model failed to significantly reduce investigation and prosecution time frames, as envisioned?*

It may be too soon to judge the timelines potential to be decreased considering the fact that the enforcement process has been affected by the two Executive Orders which had a significant impact on the entire enforcement program. The first Executive order eliminated the Medial Consultants and eliminated the court reporters which significantly delayed timelines. The second Executive Order furloughed staff causing further time delays. The Board is currently conducting a study into the vertical enforcement model and we will have more information on the model in July 2009. This model is still in a pilot phase and may need more time to be fully implemented and allow collection of sufficient data to determine its effectiveness. The VE model should be fully



evaluated to judge if this model meets the Board's mission for public protection. Evaluating affects on the enforcement timelines alone is not sufficient.

6. *Have the recommendations adopted by the board in July 2008 been implemented? If so, do you believe they have had any impact? If not, what steps need to be taken to make the system more efficient?*

The Board has been moving forward with the following recommendations:

- Staff has developed a proposal to implement the new case management IT system which has been approved and is moving forward.
- The Board has a study in progress to look at the potential of increasing compensation for its investigators as an incentive for retention.
- Subpoenas are now completed by the Attorney General's office.
- The Board is seeking legislation to amend the law to allow the Board to access medical records with patient notification, rather than patient consent or a subpoena.
- The Board is seeking legislation to amend legislation to require certification of medical records upon request by the Board.
- Executive Staff has been meeting with the AG's Office to work on issues such as a) drafting Accusations within 60 days of receipt of the completed investigation, b) reconciling status reports on cases, c) and they are meeting with Executive staff at the AG's Office on a regular basis to discuss ongoing issues.
- Hearing continuances requested by the AG's Office are being approved by Board staff, based upon a request setting forth the reasons for the continuance.
- The Board has requested OAH set Medical Quality Hearing Panel cases within 120 days of receipt of the Request for Hearing, limit granting continuances only for good cause, and mandate early settlement conferences.

#### Public Disclosure

7. *Do you believe that the board's existing disclosure provisions are sufficient to enable consumers to make informed choices when selecting a physician? In your opinion, how could the board's public disclosure processes and policies be improved?*

Yes, however, Board staff is completing a new Web license lookup that will provide even greater access to information about physicians.

See above.

8. *What steps has the board taken in response to the report?*

The Board is expanding its Web lookup to include more information on physicians for consumers who are searching for more information.

## Peer Review

9. *Do you believe the Lumetra report accurately identified the problems with the peer review process?*

*The Lumetra report did not provide sufficient information about the peer review process itself. What efforts has the board taken in response to the report?* Staff and Board Members have met with Senate B&P to discuss the report several times and has responded to questions from Senate B&P staff upon request. Board Members testified at the Senate B&P hearing. *In your opinion, how could the peer review process be improved?* The Peer Review process is not under the jurisdiction of the Medical Board. Peer review is conducted in hospitals and clinic settings. Issues related to the peer review process itself should be addressed with the hospitals and CHHS not the Board.

10. *In your opinion, how could the board work with the appropriate regulatory bodies to improve peer review?*

As stated above, the peer review process is not under the jurisdiction of the Medical Board. It would be helpful if any records requested by the board could be provided to the Board without subpoena. In addition, the B&P Code sections should be amended to clarify reporting requirements.

## Regulation of Fertility Doctors and Clinics

11. *Should the board act to more closely regulate fertility doctors and cosmetic surgeons and to regulate the treatment of their patients?*

The members of the medical profession establish the standard of practice for physicians in the various areas of practice. The Board should not be involved in establishing standards for any specialty. The Board enforces the standards developed by the physicians. The Board has never been responsible, nor should it be, for regulating clinics which falls under the Department of Public Health. However, the Board will continue to investigate the care and treatment provided by physicians, despite media attention or specialty of practice.

## Economic Impact on Board Operations

12. *Given the cuts in temporary staff, reduction of staff hours, and restrictions on personal services contracts, how will the board ensure it is able to meet the needs of its constituents in a timely and efficient manner? Are there any backlogs in the board's licensing and/or enforcement programs as a result of the staff cuts? If so, how will the board address those backlogs?*

The executive orders have had a significant impact on staffing and productivity. Staff has made every effort to optimize service to its constituents but this has been a challenge. The Board has employed students, retired annuitants, and allowed overtime to attempt to manage backlogs.

13. *How does the board prioritize its responsibilities, particularly given current budgetary realities?*

Staff keeps Board Members apprised of issues and works with the Board to ensure the priorities are consistent with consumer protection.

#### **Workforce Development**

14. *Please describe the status of the board's plan for addressing access to care and the shortage of doctors.*

The Board is implementing a telemedicine pilot program focused on chronic care disease management. This pilot program will provide access to diabetic specialty care from a tertiary academic medical center to underserved, rural, remote safety net clinics.

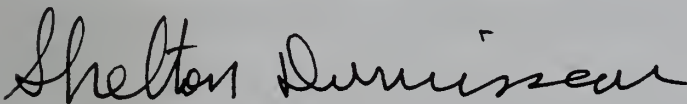
15. *Has the board made any effort to encourage high school as well as college students to consider jobs in health care professions?*

A challenge for California is that we have more applicants for medical schools than spaces for the medical school students.

Attached please find a most recent copy of a Form 700 Statement of Economic that I have filed.

Thank you.

Sincerely,



SHELTON DURUISSEAU, PhD

Member

Medical Board of California

Attachment





Statement of Goals

Senate Rules Committee

APR 09 2009

- Support and enforce existing laws and regulations pertaining to MBC
- Enforce, through staff, the monitoring functions of the board to properly protect the public
- Comply with legislative mandates and requirements

Appointments

1. *What efforts have you made to advance your previously stated goals? Do you believe you have met your goals?*

Throughout the past four years, I have gained invaluable insight into the workings of the Medical board and how it serves and protects the public. With each year my understanding of the laws and how legislation works has deepened. As a result, I believe I am better qualified now that I ever have been to put that knowledge to use along with my own experience to make a difference in the way the Board can better protect the public.

2. *What are your current goals and objectives as a member of MBC? Are they different from your original goals as an appointee? What do you hope to accomplish during your next term? How will you measure your success?*

I hope to apply my more mature and informed view of the way the Board operates and serves to put forth positive change. I am particularly concerned about rampant violations which have become mainstream which are compromising public safety.

Board Restructuring

3. *Has the new structure made the board more efficient? If so, please describe the increased efficiencies.*

I believe that the smaller board is more streamlined in many ways. I like the fact that it doesn't feel like one hand doesn't know what the other is doing as it sometimes did when there were two divisions. On the other hand, we don't have the manpower to have as many committees as we used to. Given the current state of the budget, that is probably appropriate anyway. The Executive authority mandate is an excellent example of cleaning up inefficiency.

4. *You formerly served in the Division of Medical Quality, which was responsible for implementing the disciplinary provisions of the Medical Practice Act. Under the new structure, board members must be proficient in both licensing and enforcement policies. How have you been trained to be familiar with the enforcement policies?*

I haven't found the licensing issues to be as complex as the medical quality cases, so the amount of training we received is appropriate.

5. *Why has the vertical enforcement model failed to significantly reduce investigation and prosecution time frames, as envisioned?*

I do not feel that I am in a position to say exactly why this has happened. I believe much of this is a transitional issue. From my understanding the staff has felt that things are starting to function more smoothly. I believe that it may be too soon to judge.

6. *Have the recommendations adopted by the board in July 2008 been implemented? If so, do you believe they have had any impact? If not, what steps need to be taken to make the system more efficient?*

I defer to the staff to judge the impact and to direct us when further action needs to be taken. I have a great deal of confidence in the Medical Board staff and enjoy working with them to solve problems. I believe there is a nice symbiosis and mutual respect that is shared between board members and staff.

#### **Public Disclosure**

7. *Do you believe that the board's existing disclosure provisions are sufficient to enable consumers to make informed choices when selecting a physician? In your opinion, how could the board's public disclosure processes and policies be improved?*

I don't believe that any change needs to be made at this time to disclosure policies other than to ensure that all responses are consistent regardless of how the inquiry is presented. Given the medicolegal climate in our state, too many lawsuits are initiated and settled on the basis of financial expediency without any proof of true negligence. To allow public access to this information without reforming our medicolegal system would be a mistake. I think the public would be unduly burdened with concern about physicians if they were able to see every bit of information without the tools to correctly interpret what it says about a physician's competency. Maintaining an open dialogue with the public about their concerns regarding this issue, will be crucial in order to make certain that no egregious transgressions occur.

8. *What steps has the board taken in response to the report?*

Ending the Diversion program was an enormous step toward enhancing public disclosure and is proof that the Medical Board takes consumer protection and public concerns very seriously. I realize the report was presented after this program was ended but nonetheless, this issue is always one that we take very seriously.

#### **Peer Review**

9. *Do you believe the Lumetra report accurately identified the problems with the peer review process? What efforts has the board taken in response to the report? In your opinion, how could the peer review process be improved?*

I believe that by holding the employer more accountable for the transgressions of its physician employees and by enforcing the laws requiring reporting of these transgressions, that you send the message that they need to take their oversight responsibilities more seriously. I don't necessarily agree that we should be informed when the peer review is initiated. I think the licensing agency should bear the burden of due process and then inform the board of the outcome.

10. *In your opinion, how could the board work with the appropriate regulatory bodies to improve peer review?*

I believe that a consistent dialogue regarding the current standards of care and reminder of current regulations relating to the Medical Practice Act would improve peer review. I also think that regular reminders of their reporting responsibilities and the penalties for not doing so would be appropriate.

#### **Regulation of Fertility Doctors and Clinics**

11. *Should the board act to more closely regulate fertility doctors and cosmetic surgeons and to regulate the treatment of their patients?*

I would like to know what the ASRM (American Society of Reproductive Medicine) would say about that. Micromanagement of how physicians practice is not the role of the Medical Board. There are generally accepted



standards of care that determine what is considered professional competent medical treatment. Unless this is a truly widespread problem, I would not advocate additional legislation. On the other hand, the facilities themselves most definitely should be regulated as any outpatient surgical facility is regulated.

#### **Economic Impact on Board Operations**

12. *Given the cuts in temporary staff, reduction of staff hours, and restrictions on personal services contracts, how will the board ensure it is able to meet the needs of its constituents in a timely and efficient manner? Are there any backlogs in the board's licensing and/or enforcement programs as a result of the staff cuts? If so, how will the board address those backlogs?*

I am very concerned about the cuts in staff support. There is no doubt that the citizens of California will suffer as a result of these cuts. It is an unfortunate consequence of the state of the economy. I have faith that the staff will appropriately prioritize and likely work extra hard to accomplish the job that they have been charged. I just hope they don't have to struggle for too long. If the backlogs become too great, we may have to construct some type of triage system to ensure that the crucial issues are dealt with first. Ultimately, if the cutbacks are required for a prolonged period of time, we may have to restructure how cases are dealt with.

13. *How does the board prioritize its responsibilities, particularly given current budgetary realities?*

I haven't noticed a change in the way we function as a board in the current financial climate.

#### **Workforce Development**

14. *Please describe the status of the board's plan for addressing access to care and the shortage of doctors.*

It appears to me that the shortage is being supplemented primarily by allowing non-physician providers to have more prescriptive authority and to perform a broader scope of practice. I believe that this is a trend that needs to be kept carefully in perspective. I would like to create a broadsweeping effort to increase the actual number of physicians in the state that will be sustainable. The physician loan program is one tool but we need more solutions.

15. *Has the board made any effort to encourage high school as well as college students to consider jobs in health care professions?*

There is an outreach to Medical Schools addressing licensure but we have not made any effort at the pre-medical level to create interest that I am aware of. That would be a great project if funds would be available for the initiative. I am certain that many of our physician members would be interested in participating if time would allow.



# Lindy DeKoven Responses

**Question 1** – *What are your goals and objectives as a member of the State Park and Recreation Commission? What do you hope to accomplish? How will you measure your success?*

My goals as a member of the State Park and Recreation Commission include the permanent protection of lands set aside as California State Parks, expanding the California State Park System, addressing the department's enormous deferred maintenance backlog, and exploring sources of sustainable funding for California State Parks.

I also hope that we can continue to expand awareness of the unprecedented value of California State Parks to all citizens. I will measure success by monitoring attendance at and funding for California State Parks. When there has been significant growth in the State Park System, when visitation increases, and when the current deferred maintenance backlog is significantly reduced, we will have been successful.

**2** – *What are the highest priorities of the commission? How will they be accomplished?*

The highest priorities of the Commission include decreasing the department's deferred maintenance backlog, protecting state park lands, expanding the State Park System, and increasing accessibility to the State Park System by all citizens.

This will be accomplished by investigating alternative funding sources, including private sources and endowments, by expanding existing collaborative efforts, and by supporting efforts to develop dedicated funding sources, including the vehicle license fee proposal known as the "State Parks Access Pass."

**3** – *Do you believe that your commission has the authority to regulate projects that may cross park lands?*

It is my understanding that the State Park and Recreation Commission's statutory authority includes classification of units of the State Park System and approval of general plans for units of the State Park System. While this authority allows the State Park and Recreation Commission to determine land uses within State Park System units, the State Park and Recreation Commission does not have regulatory powers over projects that may cross State Park System property.

**4** – *Is the commission addressing climate change issues when it reviews and approves general plans for park units? If so, how?*

All new general plans for units of the State Park System, which must be approved by the State Park and Recreation Commission, include components to address climate change. For example, the general plan for Butano State Park, which was approved at the Commission's October 31, 2008 meeting, included a summary of how climate change could impact this park. Effects considered included habitat loss, increased fire danger, the impact of severe storms and the potential for flooding in the park's creeks, changes in fishery habitat, and the potential for increased visitation.

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The Butano State Park general plan also includes policies that are important both to managing the park today and for anticipating the impact of climate change. These policies include protecting and restoring park habitats that provide wildlife corridors, improving fire management programs, and setting future projects well back from floodplains and creek banks.

The Butano State Park general plan, and all recent general plans for State Park System units, also supports the reduction of greenhouse gases from park operations by promoting energy efficient, sustainable design of all park facilities, and by publicizing public transit opportunities to help visitors get to the park. At Butano State Park, tree planting has also been encouraged, not only to reforest areas that have been cleared for farming, but to sequester carbon. The park's educational programs include discussions of climate change and how this effects park resources.

*5 – For what long-term effects (of climate change) does the commission have to plan?*

The climate change components of the Butano State Park general plan represent the key impacts which must be considered. These include changes in visitor use, habitat loss and changes in habitats, changes in wildlife populations, increased risk of wildfire, increased risk of severe storms and flooding. Additional effects of climate change include rising sea levels, declining air quality, and changes in the ways park visitors reach their recreation destinations. The Commission must encourage and support programs that monitor climate change so that we can quantify these effects on park resources and plan to address these changes well in advance.

*6 – Please provide a few examples of the general policies the Commission has developed for the director during your tenure on the Commission.*

Since my appointment in May 2008, the Commission has not developed or adopted any new policies for the director of California State Parks. The Commission Statements of Policy were last reviewed during 2005, and will likely be reconsidered by the Commission again during 2009. The current list of 30 policy documents can be provided on request or may be accessed online at [www.parks.ca.gov/?page\\_id=933](http://www.parks.ca.gov/?page_id=933).

*7 – Since you have been a member of the Commission, how has the Commission addressed the fiscal issues confronting the department?*

It is my understanding that the State Park and Recreation Commission has no statutory authority to address department fiscal issues except to the extent that such issues may be addressed within the Commission's general policies for the guidance of the director in the administration, protection, and development of the State Park System. As a Commissioner I believe it is my duty to support the director of California State Parks in all efforts to investigate and develop sustainable funding sources to decrease the department's dependency on general fund monies.

*8 – How is the commission addressing the state budget crisis? How are you being informed of available resources and deciding how to prioritize where they are spent?*

The State Park and Recreation Commission has no statutory authority to prioritize or direct fiscal resources except as they may be addressed in the Commission's general policies for the guidance of the director in the administration, protection, and development of the State Park System. However, the Commission has responded to the budget situation by curtailing travel and nonessential expenditures related to the Commission.

*9 – Has the commission reviewed the federal stimulus legislation for possible funding for state park deferred maintenance?*

The State Park and Recreation Commission has no statutory authority to manage the department's fiscal resources. This federal stimulus legislation, which is naturally of great interest to me, is therefore an informational item for the Commission. It is my understanding that California State Parks has identified approximately \$340 million in projects from within the department's \$1.3 billion deferred maintenance backlog which may be eligible for federal stimulus funds. The Commission anticipates the receipt of regular updates from the director as this program proceeds.

*10 – What other options are available to attempt to deal with the deferred maintenance issues?*

I must state again that it is my understanding that the State Park and Recreation Commission has no authority to direct fiscal resources beyond what may be included in the requirement for the Commission to establish general policies for the guidance of the director in the administration, protection, and development of the state park system. The department's deferred maintenance backlog is of great concern to the Commission and all of us who care about California State Parks. As a commissioner I intend to support all efforts to create independent, sustainable funding sources for California State Parks. This is the only way to make a significant difference in the department's massive deferred maintenance backlog.





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*Alice A. Huffman, President*

April 3, 2009

The Honorable Darrell Steinberg, Chairman  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, California 95814

RE: Senate Confirmation – State Park and Recreation Committee

Dear Senate Pro Tempore Steinberg:

Thank you for the opportunity to serve on the California State Park and Recreation Committee. Following are my responses to the questions and my attached Form 700.

### GOALS

**Question 1.** *What are your goals and objectives as a member of the Commission? What do you hope to accomplish? How will you measure success?*

- Protect State Parks.
- Increase availability and access to the State Park System for all citizens.
- Expand the State Park system.
- Decrease the deferred maintenance backlog.
- Securing funding to expand interpretive services offered throughout the State Park System.
- Reduce Environmental stressors for natural resource field management/preserve natural resources by:
  - Eliminating exotic plants & animals
  - Restoring natural processes
  - Maintaining natural disturbance regimes
  - Reducing unnatural sediment flows by improving drainage & maintenance of roads
  - Removing barriers to terrestrial & aquatic species movement
  - Reducing natural forest competition
  - Reducing risk of catastrophic wildfire
  - Reducing pollution from runoff and flooding
  - Increasing watershed management

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*How will success be measured?*

When there is measurably more land in the State Park System, increased visitation, and a reduced deferred maintenance backlog.

**Question 2.** *What are the highest priorities of the commission? How will they be accomplished?*

Highest priorities are:

- Protect State Parks
- Expand the State Park System
- Decrease the deferred maintenance backlog
- Increase availability and access to the State Park System

*How will this be accomplished?*

- By exploring alternative and private funding sources, including endowments
- \$15 vehicle license fee to support State Parks ("State Parks Access Pass")

## AUTHORITY OF THE COMMISSION

**Question 3.** *Do you believe that your commission has the authority to regulate projects that may cross park lands?*

- One of the issues that arose related to the Sunrise Powerlink Project's proposed route through Anza-Borrego Desert State Park, which is a State Wilderness, was whether the State Park and Recreation Commission has authority to "declassify" a State Wilderness.
  - Pursuant to Public Resources Code Section 5019.50, all units that are or shall become part of the State Park System, except those units or parts of units designated by the Legislature as wilderness areas pursuant to Public Resources Code Section 5093.30 et seq., shall be classified by the State Park and Recreation Commission into one of the categories specified in Article 1.7, Classification of the State Park System. One of those categories is State Wildernesses as defined in Public Resources Code Section 5019.68.
  - Public Resources Code Sections 5019.50 and 5019.68 provide the State Park and Recreation Commission authority to classify a unit as a State Wilderness if the criteria listed in Public Resources Code 5019.68 are met. Public Resources Code Section 5019.50 and 5019.68 are silent as to whether the State Park and Recreation Commission has the authority to declassify a unit as a State Wilderness. However, it is reasonable to conclude that the State Park and Recreation has the authority to declassify a

unit as a State Wilderness if the criteria of being a State Wilderness as required in Public Resources Code Section 5019.68 are no longer met.

- Furthermore, it should be noted that Public Resources Code Section 5002.1 states, "Prior to the classification or reclassification of a unit within the state park system into any of the categories specified in Article 1.7 (commencing with Section 5019.50) of this chapter, the [Department of Parks and Recreation] shall prepare an inventory of the unit's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features. The inventory shall be submitted by the [Department of Parks and Recreation] to the State Park and Recreation Commission for its consideration when classifying or reclassifying a unit." This section further implies that the State Park and Recreation Commission has the authority to reclassify, and thus declassify, a unit of the State Park System if the required criteria of such classification are no longer met.
- This question asks whether the State Park and Recreation Commission has the authority to regulate projects that may cross State Park System lands.

## GENERAL PLANS

**Question 4.** *Is the commission addressing climate change issues when it reviews and approves general plans for park units? If so, how?*

The one plan approved since I have been on the commission was the Butano State Park general plan that was approved at the October 31st 2008 Commission meeting included a section summarizing how climate change could affect this redwood forest park. These effects included habitat loss and shifts, increasing fire danger, severe storms and flooding in the park's two creeks, changes in fishery habitat that affected the park's salmon and steelhead populations, and possible increased use by visitors seeking a cool escape from rising temperatures inland.

The plan included several policies that are important both to managing the park today and to anticipating how climate changes may affect it. These include:

- Protecting and restoring park habitats that provide corridors to surrounding wildlands, improving opportunities for plants and animals to migrate to other appropriate locations as the parks' habitats change.
- Strengthening wildland fire management
- Setting projects back from floodplains and creek banks.

The plan also promotes reduction in the emission of greenhouse gases from park operations by encouraging energy efficient, sustainable design of park facilities, transit connections that can help visitors travel to the park, and a multi-modal trail along which



park visitor could travel to nearby attractions without using their cars. Tree planting is encouraged to reforest areas that had once been cleared for farming and to sequester carbon. The park's interpretive program notes opportunities to educate park visitors about how climate change is affecting park resources.

Future general plans will incorporate equally thorough planning for climate change.

**Question 5.** *For what long-term effects does the commission have to plan?*

The changes addressed in the Butano State Park plan are representative of several key climate change impacts for which the Commission must plan: habitat loss and shifts, increasing fire danger, severe storms and flooding, changes in fisheries, and possible changes in visitor use. Other important changes we need to anticipate include rising sea levels, declines in air quality, and changes in the transportation systems that park visitors use to reach recreation destinations. Promotion and marketing of the park system may be affected by changes that damage iconic park resources, such as Santa Cruz mountain redwoods, highland forests in southern California mountains, or famous beaches and surf breaks. Other climate change impacts will be surprises that are not yet forecast. It is important to support programs that monitor changes in park resources attributable to climate change so that we can verify climate change scenarios, detect impacts early, and respond before it is too late.

## **GENERAL POLICY DIRECTION**

**Question 6.** *Please provide a few examples of the general policies the commission has developed for the director during your tenure.*

The Commission has not developed new policies for the director during my tenure. The Commission Statements of Policy are typically reviewed every two-to-three years; they were last reviewed during 2005. A review of the Commission Statements of Policy will likely take place during calendar 2009. The current policies are available online at [www.parks.ca.gov/pages/843/files/CommissionPolicies9-23-05.pdf](http://www.parks.ca.gov/pages/843/files/CommissionPolicies9-23-05.pdf).

## **BUDGET ISSUES**

**Question 7.** *Since you have been a member of the commission, how has the commission addressed the fiscal issues confronting the department?*

It is not in the authority of the State Park and Recreation Commission to address department fiscal issues beyond the Commission's mandate to establish general policies for the guidance of the director in the administration, protection, and development of the state park system (Public Resources Code Section 539).

**Question 8.** *How is the commission addressing the state budget crisis? How are you being informed of available resources and deciding how to prioritize where they are spent?*

As in the response to question 7 above, the State Park and Recreation Commission has no authority to address fiscal issues or prioritize fiscal resources beyond the mandate to

establish general policies for the guidance of the director. However, the Commission receives regular updates from the director on the fiscal condition and concerns of the department.

## DEFERRED MAINTENANCE

**Question 9.** *Has the commission reviewed the federal stimulus legislation for possible funding for state park deferred maintenance?*

While Commissioners are interested in the federal stimulus legislation, the Commission has no statutory authority to authorize or direct fiscal resources in the department. This makes federal stimulus legislation an informational item for the Commission, for which the Commission has requested regular updates from the director.

**Question 10.** *What other options are available to attempt to deal with the deferred maintenance issues?*

Once again it must be noted that the State Park and Recreation Commission has no fiscal authority beyond its mandate to establish general policies for the guidance of the director in the administration, protection, and development of the state park system. While the Commission is very much interested in deferred maintenance issues and sees decreasing the department's deferred maintenance backlog as a key goal, the Commission's role is limited to evaluating, revising, and creating new policies for the director, supporting the efforts to establish a sustainable funding source, and to supporting the director's initiatives in this area.

Sincerely,



Alice A. Huffman  
Commissioner  
State Parks and Recreation Commission

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RESPONSES TO QUESTIONS RAISED BY  
SENATOR DARRELL STEINBERG

Chairman, Senate Rules Committee

1. *What are your goals and objectives as a member of the State Parks and Recreation Commission? What do you hope to accomplish? How will you measure your success?*

Response

Reverting to my background and experiences, I define *goals* as my aims, and ambitions; and *objectives* as definable steps taken to reach those goals.

As a Commissioner, my principle goals include the following: providing requisite leadership to ensure the protection and expansion of the State Park System, ensuring the availability and access of all natural and artifact resources managed by the State Parks Department to every Californian, and providing long-term assurance that the operation, management, and maintenance of the State Parks assets are financial viable..

I have defined a number of measurable objectives in order to reach these goals, including the following: providing a conscientious stewardship over the assets of the State Park System by cogently participating in the development of consistent policies and guidance; ensuring the integrity of State Park assets through Commission actions; securing essential State Park financial resources; and by instituting imperative direction for the operation, management and preservation of Park resources.

Objectives may be measured in the following ways: demonstrating a measurable integrity in the expansion, operation, and maintenance of the Parks System through public actions; encouraging expanded outreach activities to increase Park System patronage and satisfaction; encouraging the reduction of environmental Park System stressors including removal of exotic species, reduction of barriers to animal and aquatic movement, reduction in catastrophic wildfire risks, and an increased acquisition of watershed; and by dramatically reducing our Parks System's deferred maintenance.

2. *What are your highest priorities of the commission? How will they be accomplished?*

Response

My highest priority during my tenure on the Commission will be to ensure that a viable State Park System funding source is successfully implemented. As long as the Department of Parks and Recreation is constrained by inadequate funding from the State's general fund, its deferred maintenance burden will continue to grow uncontrollably. Deferred maintenance is more-often-than-not a matter of geometric growth and cost. Failure to address relatively simple maintenance requirements in a timely manner, typically results in maintenance remedies of substantially greater future

concern and expense. Deferring required maintenance merely shifts an exacerbated financial liability to another generation and is inherently a counter-productive practice. I will aggressively pursue a more acceptable solution.

In my professional career, I have personally addressed situations where predecessors left me with crippling deferred maintenance problems. In every instance, I overcame those maintenance burdens, with some of my remedies becoming industry leadership standards.

I intend to work closely with legislators and concerned members of the public—including the Honorable John Laird—to craft and promote an independent funding mechanism to fund the State Park System, separate and distinct from the State's general fund. The provisions for such a funding mechanism may be instituted by legislation or by referendum.

I will also join the Commission as a whole in continuing to pursue other high priorities such as Park protection and enhancement, increasing availability and access for our Park patrons, and pursuing expanded parkland acquisitions.

3. *Do you believe that your Commission has the authority to regulate projects that may cross Park lands?*

#### Response

Since the underlying question references the Sunrise Powerlink/Anza-Borrego State Park experience, in which the Commission took testimony and during which the Department of Parks and Recreation provided opinion, and since I believe the underlying question relates to whether the Commission has the "statutory authority" to regulate projects that cross park lands, I have discussed the question with California State Parks Legal Counsel to assist me in providing an answer.

One of the issues that arose related to the Sunrise Powerlink Project's proposed route through the Anza-Borrego Desert State Park, which is classified as a State Wilderness, was whether the State Park and Recreation commission has the authority to "declassify" a State Wilderness.

- Pursuant to Public Resources Code Section 5019.50, all units (as classified Park entities are referred) that are or shall become part of the State Park System, except those units or parts of units designated by the Legislature as wilderness area pursuant to Public Resources Code Section 5093.30 et seq., shall be classified by the State Parks and Recreation Commission into one of the categories specified in Article 1.7, Classification of State Park System. One of those categories is State Wildernesses as defined in Public Resources Code Section 5019.68.
- Public Resources Code Sections 5019.5 and 5019.68 provide for the State Parks and Recreation Commission to classify a unit as a State Wilderness if the criteria listed in Public Resources Code 5019.68 are met. Public Resources Code Section 5019.50 and 5019.68 are silent as to whether the State Parks and Recreation Commission has the authority to declassify a unit as a State Wilderness. However, it is reasonable to conclude that the State Parks and Recreation Commission has the authority to declassify a unit as a State Wilderness if the criteria of being a



State Wilderness as required in Public Resources Code Section 5019.68 are no longer met.

- Furthermore, it should be noted that Public Resources Code Section 5002.1 states, "Prior to classification or reclassification of a unit within the state parks system into any of the categories specified in Article 1.7 (commencing with Section 5019.5) of this chapter, the [Department of Parks and Recreation] shall prepare an inventory of the unit's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical and geological features. The inventory shall be submitted by the [Department of Parks and Recreation] to the State Parks and Recreation Commission for its consideration when classifying or declassifying a unit." This section further implies that the State Park and Recreation Commission has the authority to reclassify, and thus declassify, a unit of the State Park System if the required criteria of such classification are no longer met.

The State Parks and Recreation Commission's authority includes classification of units within the State Park System (Public Resources Code Section 5019.50 et seq.) and approval of General Plans of units within the State Park System (Public Resources Code Section 5002.2 et seq.). While this authority allows the State Parks and Recreation Commission to determine and approve uses of land within State Park units, the State Parks and Recreation Commission does not have regulatory powers over projects that may cross State Park System lands.

I would advocate that the State Parks and Recreation Commission be provided that clear authority.

4. *Is the Commission addressing climate change issues when it receives and approves general plans for park units? If so, how?*

Response

State Park General Plans which have been approved in recent years, have addressed climate change. Since my appointment to the Commission in late October, 2008, I participated in the General Plan changes approved October 31, 2008. During that session, the Commission was provided a summary of potential climate change impacts on the Butano State Park redwood forest.

In deliberations, the State Parks and Recreation Commission considered such potential climate change impacts as habitat loss and shifts; increasing fire danger, severe storms and flooding in the park's two creeks; changes in fishery habitat that could affect salmon and steelhead populations, and increased park usage associated with rising inland temperatures.

The approved Butano State Park General Plan includes several policies important to management and anticipation of climate change impacts, including:

- Protecting and restoring park habitats that provide corridors to surrounding wild lands, thereby improving opportunities for plants and animals to migrate to other appropriate locations as the park's habitats change.
- Strengthening fire management.



- Providing setbacks for projects near flood plains and creek beds.
- Promoting reductions in greenhouse gas emissions from park operations.
- Sequestering carbon through reforestation of areas previously cleared for farming.
- Providing for multi-modal transportation access to nearby attractions, thereby reducing or eliminating the need for visitor's automobiles.

Future general plans/amendments will incorporate equally comprehensive planning for climate change.

5. *For what long-term effects does the commission have to plan?*

Response

The Commission must anticipate the effects of the following long-term issues.

- Adequate Department funding for maintenance. Unless the issue of adequate State Park maintenance funding is successfully addressed, the cost to stop the continued deterioration of State Park capital improvements and infrastructure will result in an un-resolvable financial deficit. Unsafe capital assets will be condemned and funds to establish new facilities will be in serious question. If we let this happen, the entire State Park System could be jeopardized.
- Protection and Enhancement. The Commission, through its policies and guidance to the Director, is a guardian of the natural and collective resources within the State Park System. The Commission must possess adequate legislative authority to address all anticipated issues relating to its charge. The Commission must then adjudicate with integrity, foresight, and reason.
- Contingent planning. The Commission must ensure that contingent issues have been adequately addressed by the Department including the following: planning for additional park land acquisitions; ensuring the adequacy of catastrophic-event management plans, including earth quake, fire and other natural disasters; ensuring appropriate Department consideration and planning for lesser known occurrences associated with global climatic changes including, habitat losses and shifts, sea level changes, atmospheric changes, storm and flooding; and forecasts for invasive environmental impacts and responses.

6. *Provide a few examples of the general policies the commission has developed for the Director during your tenure.*

Response

The State Parks and Recreation Commission has not developed new policies for the Director during my brief tenure. The Commission's Statements of Policy have been typically reviewed every two to three years and were last reviewed in 2005. I support a review of the Statements of Policy in the calendar year 2009. Current State Parks and Recreation Commission policies are available at [www.parks.ca.gov/843/files/CommissonPolicies9-23-pdf](http://www.parks.ca.gov/843/files/CommissonPolicies9-23-pdf).

7. *Since you have been a member of the commission, how has the commission addressed the fiscal issues confronting the Department?*

Response

Pursuant to the Public Resource Code Section 539, the State Parks and Recreation Commission is charged with the establishment of general policies for the guidance of the Director in the administration, protection and development of the State Park System.

State Parks and Recreation Commission's Statement of Policy I.6 further illuminates the Commission's authority in this matter by directing the Commission to review and advise the Director on the following:

- Financial pro-forma for those components of General Plan amendments that provide opportunity for significant revenue generation, or require significant expenditures by the Department; and
- Feasibility studies, draft concession bid packages, Request for Interest for Proposals which are of a magnitude that requires review and approval by the California State Legislature; and
- Financial pro-forma of feasibility studies for major construction projects.

In accordance with Acquisition and Development Policy III.3, the Commission is apprised annually of the Department's proposed capital outlay program by April and at the end of each fiscal year the Commission is provided the capital outlay activities for the previous year.

Beyond these policies and the general mandates under Public Resources Code Section 539 for the Commission to establish "...general policies for the guidance of the Director..." the Commission does not have the statutory authority to address specific Departmental fiscal issues.

8. *How is the Commission addressing the State budget crisis? How are you being informed of available resources and deciding how to prioritize where they are spent?*

Response

As in the response to question #7 above, the State Parks and Recreation Commission does have statutory authority to address Department fiscal issues or prioritize Department fiscal resources beyond the mandate to establish general policy guidelines for the Director. However, the Commission does receive regular updates from the Director on the fiscal condition and concerns of the Department.

9. *Has the Commission reviewed the federal stimulus legislation for possible funding for state park deferred maintenance?*

Response

As stated in response to question #7 above, the State Parks and Recreation Commission is charged with the establishment of general policies for the guidance of the Director in the administration, protection and development of the State Park System.

In my recent briefing with the Department on March 24, 2009, I was advised that the Department was indeed actively engaged in the application process for identifying "shovel ready" deferred maintenance projects that could qualify for Federal stimulus funding. Approximately \$340 million dollars of such projects had been identified in the \$1.3 billion State Park deferred maintenance backlog. The Department is aggressively seeking inclusion in the Federal stimulus program to address budgetary constraints.

10. *What other options are available to attempt to deal with the deferred maintenance issue.*

Response

While the Commission has been advised that it does not have statutory authority to intervene in the fiscal issues of the Department, Commission members are concerned with the mounting deferred maintenance liability. Many State Parks advocates agree that the deferred maintenance is the single most important objective to resolve.

As provided in my Response to Question #2, I have made the elimination of the deferred maintenance deficit my highest priority and will exercise my role as a Commissioner, as well as that as a private citizen, to the maximum extent permissible by law to find a solution to adequately fund the State Parks' operations and maintenance activities and to dramatically reduce the deferred maintenance burden.

A number of creative funding mechanisms are being considered by states throughout the country. Montana initiated a well-subscribed voluntary pay-to-play strategy four years ago. It's been reported that 70% of Montana's vehicle license applicants have voluntarily participated in their state's pay-to-play park funding program.

Pay-to-play strategies typically solicit from state residents renewing their annual automobile or motorcycle licenses, voluntary contributions to support state park systems. Voluntary contributions are not considered a "new taxes," and since the vehicle license applicant can "opt-out", Montana's voluntary program has proved to be a fairly popular adjunct to their normal state parks funding. Voluntary contribution programs could be legislated relatively quickly, since "opt-out" features do not trigger requirements for super-majority votes.

Predicated on the success of implementing such a voluntary program, a future decision could be made as to the necessity for making such a funding mechanism



permanent. If a voluntary program were incorporated in the State of California, the participation record would be an excellent indication of the public's support for funding our Park System.

It's estimated that by retaining the California Park System's funding at its current General Fund level, and providing free State Park System parking access to all vehicle owners licensed under a *mandatory* \$15 park access fee proposal, this funding mechanism could fully address all of the State Park System's anticipated annual operational and maintenance expenditures AND provide for an annual reduction in excess of 15%.of the current deferred maintenance liability. At this rate, the entire deferred maintenance liability could be off-set in less than ten years, at which time General Fund budgeting for the Park System could be adjusted. These are just two examples of creative Park System funding mechanisms.

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PROFESSOR J. H. HARRIS  
DEPARTMENT OF CHEMISTRY  
UNIVERSITY OF CHICAGO

100 SOUTH EAST ASIAN AVENUE  
CHICAGO, ILLINOIS 60607

Dear Professor Harris:

I am writing to you to express my appreciation for the information you have provided me regarding the progress of the work on the synthesis of the compound which I have been studying.

I am very interested in the results of your experiments and the progress of your work.

I am sure that your work will be of great value to the field of chemistry.

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